

*Ontario, Commissioner to inquire into
"Certain Charges, etc. contained in a speech
delivered by A.C. Lewis"*
REPORT

OF

John Alexander Macintosh, Esq., K.C.

Commissioner to inquire into the truth or falsity of certain charges, etc., contained
in a speech delivered by A. C. Lewis, Esq., M.L.A., in the Legislative
Assembly, reflecting on the administration of the Attorney-General's
Department in respect of the investigation into the death of
Captain Orville Huston, at Fort Frances.

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To His Honour, the Lieutenant-Governor of the Province of Ontario:

By your Commission dated the 28th day of April, 1922, and issued pursuant to Chapter 18 of the Revised Statutes of Ontario, 1914, entitled "An Act respecting Inquiries Concerning Public Matters," I was appointed Commissioner with all the powers authorized by that Act,

(A) To inquire into and report fully upon all the circumstances in any way connected with,

1. The truth or falsity of any charge, statement or allegation contained in the speech delivered by Major A. C. Lewis, the Honourable Member for North East Toronto, Seat A, in the Legislative Assembly of Ontario on the 27th day of April, 1922, of undue delay, negligence or incompetence on the part of the Deputy Attorney-General, the Crown Attorney of Rainy River, the Commissioners of Provincial Police, Ex-Inspector James G. Jeffrey of the Provincial Police and Constable K. D. Campbell of the Provincial Police or of any other official, agent or employee in the employ, directly or indirectly, of the said Department with regard to the investigation into the death on the 16th day of December, A.D. 1921, of Captain Orville Huston.

2. The truth or falsity of any charge, statement, allegation, insinuation or suggestion as contained in the said speech.

(a) That any official, agent or employee of the Government of Ontario or any Department thereof, having to do with the administration of justice was influenced in any way by E. W. Backus of International Falls or by R. T. Harding, K.C. of Toronto or by any official, agent or employee of the said E. W. Backus or by any other person on his behalf, and

(b) That the investigation into the death of the said Captain Orville Huston was rendered abortive or in any way whatsoever affected by such influence, if the same was in fact exerted.

(B) To review the proceedings at the Coroner's inquest and to take any further evidence that may be available as to the cause of the death of the said Captain Orville Huston.

The speech of Major Lewis was not taken down entirely in shorthand but attached to the Commission and made part of it are the newspaper reports of that speech contained in *The Mail and Empire*, *The Globe* and *The Evening Telegram* of the 28th of April, 1922 and a portion of the speech taken verbatim in shorthand by one E. G. Smith at the time the speech was delivered. Major Lewis in the course of the inquiry has testified that the reports in *The Mail and Empire* and *The Evening Telegram* are fair reports of his speech and that the portion of the speech reported verbatim by Mr. Smith is accurate.

These reports of *The Mail and Empire* and *The Evening Telegram* and the verbatim report of Mr. Smith are as follows:—

MAIL AND EMPIRE, April 28th, 1922.

CLAIMS VETERAN WAS MURDERED

North-East Toronto Member Makes Charges Respecting Huston Case

INQUIRY IS PROMISED

Major Lewis Says Backus Interests Concerned in Papers Held by Victim

The tragic death of Captain Orville Huston, in the outskirts of Fort Frances, in December last, was brought to the attention of the House yesterday by A. C. Lewis of North-East Toronto, in a recital of so grave a character that at its conclusion Hon. W. E. Raney stated that a new investigation into the circumstances would be at once authorized and that the Toronto member would be invited to tell all that he knew about the matter. After the House rose the Attorney-General announced that a Royal Commission would be issued immediately.

For an hour the air in the chamber was electric as Mr. Lewis voiced the conviction, held widely in the north country that Captain Huston was not a suicide, as suggested, but was murdered, and charged the Attorney-General's Department with laxity in having the facts brought to light.

Premier Drury and his Attorney-General treated the matter as a tremendously serious one in view of the statements made, and the latter, in his anxiety to set Mr. Lewis right on one point where the Toronto member became mixed in his dates, precipitated a sharp conflict as to his right to interrupt. The Speaker ruled that he had the right, but Hon. Mr. Ferguson held that the Speaker had got beyond the rules of the House and reluctantly stated that he would have to appeal from the ruling. That unpleasant necessity was avoided, however, by Mr. Lewis himself making the correction Mr. Raney was seeking to make.

In opening his references to the matter in the course of his contribution to the budget debate, Mr. Lewis said that as a result of the manner in which Captain Huston's death had been investigated, the Attorney-General's Department rested under grave suspicion in the minds of many people acquainted with the circumstances of not having endeavoured to bring out all the facts in the case.

Proceeding, the speaker told of the discovery of the war veteran's body lying by a pathway in a field in Fort Frances, with a bullet in the heart. Commenting upon the readiness with which the local officers accepted the theory of suicide, Mr. Lewis drew attention to a number of facts, any one of which should have been sufficient to arouse suspicion of the manner in which the young man had met his death.

SUSPICIOUS CIRCUMSTANCES

(The revolver found near the body of Captain Huston had four chambers discharged and only one bullet was found in the body. *while*)

(The left coat sleeve was torn and the buttons were torn from his coat, the flesh and skin of his left wrist was lacerated and papers taken from his pocket were scattered along the path in the direction he was going and against the direction in which the wind was blowing.)

I

Huston was a left-handed man; the holster of his revolver was found in his left hand pocket, and his right hand was partially disabled as a result of a wound overseas.

"It would have been impossible," said Mr. Lewis, "for him to have shot himself through the heart as he was shot." In addition to that, there was the fact that a young lady heard three shots fired, then a cry for help, then another shot—and then silence.

"Now, I say that these are facts which should have been readily apparent to any officer carrying on even the most superficial examination and should have at least suggested to him that there was a possibility of him being killed by some other hand than his own."

Proceeding, Mr. Lewis gave some of the facts already made familiar through the press, of Capt. Huston's business mission to Fort Frances, and suggested that there were those who would benefit by the recovery of certain papers the young man was supposed to have.

"On whose part was that done?" asked Mr. Raney.

"There was one man in particular. I do not say one man who desired Huston's death, but one who was interested in gaining possession of certain papers Huston was thought to have about him when he was in Fort Frances, and that as a result of an endeavour to secure these papers it is reasonable to suppose Huston met his death."

Proceeding, he told of how Huston in order to sell pulpwood to the mills at Fort Frances had succeeded in getting a reduction in freight rates on pulpwood from Northern Manitoba.

"The owner of the mills, who had agreed with Huston to take the wood, instead of carrying out his part of the contract used the concession in freight rates granted Huston as a lever to get a similar reduction in freight rates from his own limits in Northern Ontario to Fort Frances, and having secured that reduction renounced his agreement with Huston, or rather, he told him he would take 10,000 cords and no more."

TALK OF THREATS

Following this, Huston had come down to Fort Frances to personally press his claims. According to Mr. Lewis he is said to have threatened to make the whole transaction public, and at one time following a telephone conversation, he is stated to have told a person in the room with him that he was "threatened with rough stuff" if he went to Fort Frances. He had gone there nevertheless, and three days later his body was found in the outskirts of the town.

Mr. Lewis then charged that although this occurred in December no additional assistance was sent into Fort Frances to investigate until February.

"The man who had broken the contract and was interested in securing the documents was E. W. Backus, of International Falls, and before Provincial Inspector Jeffrey left Toronto to take up the investigation into this case he had an interview with R. T. Harding, one of Backus' solicitors, and then left for Fort Frances to undertake the investigation, and almost before he left the train he made the statement that he had been sent up to investigate 'this case of suicide.' He went up with his mind firmly fixed on suicide, and the peculiar thing is that R. T. Harding with whom he had discussed this matter, visited

Fort Frances shortly after, and in speaking to Capt. Huston's brother, said, 'Sorry, but it's a plain case of suicide.' There is evidence that all along the line there was a desire to settle on this young man the stigma of taking his own life, and not until the 18th of February did the Attorney-General offer a reward for the capture of those responsible for his death."

Mr. Lewis said that he was aware that there had been an inquest and an open verdict, but he was ready to say further that the foreman of the jury was convinced that Capt. Huston was murdered, and that Inspector Jeffrey had it firmly fixed in his mind that it was a case of suicide before he undertook the investigation at all.

Hon. Mr. Raney rose: "I regard this as an exceedingly grave matter," he said. "Is the honourable member now suggesting that the man whom he has named was guilty of bringing about the death of this young man? Not only does he make that suggestion, but if I didn't misunderstand his words, he suggested that a man in Toronto, a professional man, was privy to the diversion of an officer of justice from his duty in connection with the inquiry into the facts. Did I correctly understand the honourable gentleman's reference?"

Mr. Lewis remarked that he was not responsible for Mr. Raney's impressions, and the Attorney-General repeated his question at length.

"The Toronto member said the question had been so lengthy that he was not clear about it.

"But I do say this: what I have said, and what I repeat is this; that this young man was found killed under circumstances so plain that anybody could see he had not killed himself. I repeat that there was one man with whom he had been in a business deal—I do not say that man was responsible for his death—but I do say there was one man in whose interest it was to secure the papers he was supposed to have on him, and I do say that the officer deputed by the Attorney-General to investigate had an hour's conference with R. T. Harding before he left Toronto, and you may take whatever inference you like from it."

Mr. Raney wanted to know if Mr. Lewis had communicated his information to the Attorney-General's Department, and the member declared that he hadn't. What he had just told the House was common knowledge in Fort Frances. The Attorney-General should have had that information through his officers.

DEAD MAN NOT IN DEBT

Proceeding, Mr. Lewis stated that men interested in the Backus Company had been active in endeavouring to support the idea that Huston had killed himself, and to support his contention read from interviews given to the press by men advancing the theory of suicide. It had been said that young Huston was in debt at the time of his death, but Mr. Lewis read a letter from a sister refuting that suggestion.

The member wanted to know why Inspector Jeffrey had gone back to England. "I would like to ask the Attorney-General who suggested to Jeffrey that he interview Mr. Harding before he went to Fort Frances, why no attempt was made to trace the ex-convict seen in Fort Frances the day Huston was killed, but who disappeared the same night and hasn't been seen since, a man known

to the police of that section and a man who, early last year, had shot a detective in the employ of a lumber company, whose limits certain officials of the Backus Company were investigating on their own hook."

Mr. Lewis went on to speak of the sending of Jeffrey in February and this provoked the lengthy argument referred to which was ended by the member admitting that Jeffrey had been sent up on an earlier occasion. That all went to show, he said, how superficial the investigation had been.

MR. RANEY'S REPLY

In replying Hon. Mr. Raney quoted from a report made by Edward Bayly, K.C., Deputy Attorney-General, setting out the circumstances as they appeared then—in the middle of February. Mr. Bayly had pointed out that Jeffrey thought it a case of suicide while Provincial Constable Campbell seemed doubtful. The jury had brought in an open verdict. A reward of \$1,000.00 had been offered in February and about that time the question of re-opening the inquest had been raised. The local Crown-Attorney had reported against a new inquest since further evidence could not be obtained by police work.

Mr. Raney contradicted the statement that the department had not shown any energy in dealing with the matter.

"So far from that being true the department was not active in this matter, the department was on the ground and active at once and ever since representations were made to the department that there was doubt about it being a case of suicide. A Scotland Yard man—Inspector Jeffrey—had been sent up to investigate."

This roused several Opposition members, who asked embarrassing questions about the inspector and the reason for his sudden disappearance. Mr. Raney had to admit that Jeffrey had been accused of accepting bribes from bootleggers and had left the service before an investigation was completed. This, according to Mr. Lewis, cast a doubt over Jeffrey's whole investigation.

He wound up by demanding assurances of a thorough investigation.

"An investigation will be at once authorized and the honourable gentleman will be summoned as a witness," said Mr. Raney.

Mr. Lewis expressed his satisfaction with the assurance and the matter closed for the time being.

THE EVENING TELEGRAM, APRIL 28th, 1922 LEWIS FORCES INQUIRY INTO WAR VETERAN'S STRANGE END

Toronto Man Insists on Clearing Name of Comrade Found Dead at Fort Frances

BACKUS CONCERN INVOLVED

Legislature is Told Startling Story of How Many Suspicious Circumstances were Neglected to Fix Suicide on Capt. Orville Huston.

A commission of inquiry to investigate the death of Capt. Orville Huston, Winnipeg war veteran, found dead in a field at Fort Frances, Ont., on the morning of Dec. 16 last, was promised immediately by Attorney-General Raney at the close of a speech delivered in the Legislature yesterday by Major Alex

Lewis, Conservative of N.E. Toronto. Major Lewis furnished an exhaustive account of Capt. Huston's mysterious death, and the suspicious circumstances surrounding the occurrence, opening up the facts regarding the late Capt. Huston's business disputes with the E. W. Backus lumber interests of Fort Frances and disclosing the seeming efforts of Backus officials to fasten the crime of suicide upon a man the circumstances of whose death pointed directly to a brutal murder.

GRAVE DISCLOSURE

Another sensational disclosure made by Major Lewis was that Provincial Inspector Jeffrey, detailed by the Government to probe the Huston death, had had an hour's interview with R. T. Harding, K.C., a Backus lawyer, before departing for his duties at Fort Frances, and had arrived on the scene of the crime expressing the opinion that the case was one of suicide, an opinion which Mr. Harding himself was later shown to have expressed. The fact that Inspector Jeffrey subsequently was permitted by the Government to resign and leave the country while he was under investigation for the alleged acceptance of a bribe added force to the statements.

Major Lewis gave the Government front benches a very warm hour and a half. The fact that the Government took a very serious view of his damaging allegations was not surprising.

CHARGES NEGLECT

In charging the Attorney-General's department with culpable negligence in failing to investigate properly the circumstances surrounding the death of Capt. Huston at Fort Frances in December, Mr. Lewis said the department rested under grave suspicion of not having endeavoured to bring out all the facts of the case. Capt. Huston's body had been found in a field on the outskirts of Fort Frances on the morning of December 16 last. From the time of the discovery he charged, a studied attempt had been made to fasten on the dead veteran the crime of suicide. Within an hour after the body was found Police Chief Wall of Fort Frances had wired Capt. Huston's family that the body had been found and it was apparently a case of suicide.

The revolver found near the body of Capt. Huston had four chambers discharged and only one bullet was found in the body. The left coat sleeve was torn and the buttons were torn from the coat. The flesh and skin of the left wrist was lacerated and papers taken from his pocket were scattered along the path in the direction he was going, and against the way the wind was blowing on the fatal night. Huston was a left-handed man and the holster of his revolver was found in his left hand pocket and his right hand was partially disabled as a result of war wounds.

HEARD SHOTS

"It would have been impossible for him to have shot himself through the heart as he was shot," said Mr. Lewis. "In addition, there is the fact that a young lady in Fort Frances says she heard three shots fired in the night, then a cry for help, then another shot, and then silence. These are facts which should

have been readily apparent and open to any officer carrying on the most superficial investigation and should at least have suggested to him the strong possibility of Huston having been killed by some other hand than his own."

Mr. Raney: "Did you communicate the facts you have stated to the department?"

Mr. Lewis: "The facts I have stated were and are common knowledge in Fort Frances and Winnipeg."

Mr. Raney wished to interrupt again, and Premier Drury broke in with an opinion that, in a matter so grave, the rules which prevented Mr. Raney from breaking in might well be stretched for his accommodation.

Mr. Ferguson disagreed with the proposal to waive the rules. The matter might be a grave one, he said, and the Attorney-General might be responsible for the gravity of it.

Mr. Lewis said if the Attorney-General had been on the job he would have known the facts he was presenting. Having looked into the case, he was not surprised that the department had no knowledge.

Men interested in the Backus Company had been interested and active in spreading the suicide theory regarding Huston's death.

RANEY'S IMPRESSIONS

Mr. Raney: "I regard this as an exceedingly grave matter. Is the honourable member now suggesting that the man whom he has named was guilty of bringing about the death of this young man? Not only does he make the suggestion but, if I did not misunderstand his words, he suggested that a professional man in Toronto attempted to divert an officer of justice from his duty in connection with the inquiry into the facts."

Mr. Lewis said he was not responsible for Mr. Raney's impressions. He went on: "But I do say this. This young man was found killed under circumstances so plain that anybody could see he had not killed himself. There was one man with whom he had been in a business deal—I do not say that man was responsible for his death—but I do say there was one man in whose interest it was to secure the papers he was supposed to have on him, and I do say that the officer deputed by the Attorney-General to investigate the case had an hour's conference with R. T. Harding before he left Toronto—and you may take whatever inference you like from it."

A LATE START

It was on the night of December 15 that Huston was killed, said Mr. Lewis, and it was not until February 6 that Provincial Inspector Simmonds was assigned to work on the case, the investigation having been left to the one provincial constable who happened to be on the scene until that date. That man, Officer Campbell, believed the case was one of murder, and still believes it.

Later on, an officer was sent from Toronto, Inspector Jeffrey. Before he left Toronto to go to Fort Frances he had an interview with Mr. R. T. Harding, the Backus lawyer, who himself later said to Huston's brother, "Sorry, but it's a plain case of suicide."

Mr. Raney: "Are you aware that an inquest was held on December 20 and an open verdict returned?"

Mr. Lewis: "Yes, and the foreman of the jury will tell you that he is convinced Huston was murdered and that Jeffrey went to Fort Frances satisfied it was a case of suicide."

Mr. Raney got up to interrupt again. He offered a typical lawyer's interruption, attempting to get Mr. Lewis to make certain admissions for subsequent use in presenting the Government's case.

THE BACKUS TRAIL

Mr. Lewis went on: "Why was there an attempt to create the impression that Capt. Huston killed himself? I am going to tell you the reason that is in the minds of the people of Fort Frances and Winnipeg, who know all the circumstances of the case. When he returned from overseas Capt. Huston made an agreement with the Backus interests by which they were to take 25,000 or 50,000 cords of pulpwood from Northern Manitoba if Huston could secure a reduction in freight rates from Northern Manitoba to Fort Frances. Through influence he had in the east, Huston did secure a reduced freight rate, and he was then prepared to deliver the pulpwood at Fort Frances in accordance with the contract.

"The owner of the mills who had agreed with Huston to take the wood, instead of carrying out his part of the contract, used the concession in freight rates granted Huston as a lever to get a similar reduction in freight rates from his own limits in Northern Ontario to Fort Frances, and, having secured that reduction he renounced his agreement with Huston, telling him that he would take ten thousand cords and no more.

WAS THREATENED

"Huston had gone to Fort Frances to press his claims personally. Previous to going he had threatened to make the whole case public, and after having talked to some one from Winnipeg over the long distance phone, he had remarked to a friend that he was threatened with rough stuff if he went to Fort Frances.' He had gone, nevertheless, and three days later his body was found in a field on the outskirts of the town."

"The man who had broken the contract," said Mr. Lewis, "and was interested in securing the documents was E. W. Backus of International Falls and Fort Frances, and, before Provincial Inspector Jeffrey left Toronto for Fort Frances to investigate the case he had an interview with R. T. Harding, one of the Backus solicitors. On arrival, he explained that he had come up to investigate 'this case of suicide.' He went up there with his mind firmly fixed on suicide, and the peculiar thing is that the same R. T. Harding with whom he had discussed the matter visited Fort Frances shortly after and meeting Capt. Huston's brother, said: 'Sorry, but it's a plain case of suicide.' There is evidence that there was all along the line an effort to fasten on this young man the stigma of taking his own life, and not until the 18th of February did the Attorney-General's Department offer a reward for the capture of those responsible for his death."

He quoted press interviews with officials of the Backus Company, in which the latter were spreading their suicide theories.

WHY THE DELAY?

"Why was there no investigation for six weeks after the body was found?" asked Mr. Lewis. "Why was no reward offered for two months? Why did Inspector Jeffrey interview R. T. Harding, a Backus lawyer, before going to Fort Frances? Who instructed Jeffrey to interview Harding? Why was no attempt made to trace an ex-convict, who was seen in Fort Frances the night Huston was killed, who had previously shot a detective employed by interests whose timber limits the Backus people were investigating on their own hook, and who had not been seen in Fort Frances since the night Huston was killed?"

At this point Mr. Raney sought to interrupt again, and a long wrangle took place when the Speaker ruled against Mr. Lewis, who was trying to continue his speech. Mr. Ferguson appealed from the ruling which Mr. Speaker admitted was not technically correct, and a vote of the House was in order. The U.F.O. were getting ready to back up Mr. Raney, and Mr. Lewis saved an ugly situation for Mr. Speaker by agreeing to concede that he had made a slight error in regard to the date when Jeffrey went to Fort Frances. He said Jeffrey was in Fort Frances for a short time early in the year, and was detailed again in the middle of February.

RANEY'S STATEMENT.

Mr. Lewis then yielded the floor to Mr. Raney to make a statement, and Mr. Raney read the report of Deputy Attorney General to him on the case, dated February 22nd, 1922. The report told of the finding of Huston's body, said there was no sign of any struggle, told of Huston's having said he had a large sum of money while in Fort Frances, and of the finding of seven cents on the body, and said Provincial Constable Campbell had been on the job at once.

On December 20th, Mr. Raney said, there had come a wire from the editor of the Manitoba Free Press, Winnipeg, asking for an inquiry, and Inspector Jeffrey had been sent to Fort Frances on December 28th. His report was that it was a case of suicide. He explained the finding of the pockets turned inside out by saying that Huston had probably turned them that way in pulling out his gloves. Capt. Huston was said to be in debt, to have lost his position, and to be in a bad way. Inspector Jeffrey said it was not uncommon for a suicide to fire four shots, with only one taking effect.

Mr. Raney read the handbill offering a reward of \$1,000, and referred to the difficulty of reopening the inquest and going back over the ground.

Mr. Dewart: "Is Inspector Jeffrey in Canada?"

Mr. Raney: "You know very well."

JEFFREY DEPARTS.

Mr. Dewart: "Why did you let him go? Was his departure because of his connection with this case?"

Mr. Raney. "Mr. Jeffrey resigned while under investigation. He was accused by bootleggers of taking a bribe." (Former Inspector Jeffrey, the man mentioned, left Canada for England recently. He was allowed to resign while being investigated, before the inquiry had finished.)

Mr. Dewart pointed out that the issue affected the value of Jeffrey's testimony in the case.

Mr. Raney was proceeding to make a speech when he was pulled up short by Mr. Lewis, who had the floor.

Mr. Lewis: "The Attorney-General's statement bears out the case I have been making. Resignation of Inspector Jeffrey while under investigation disqualifies his evidence. Owing to the service of Capt. Huston overseas and my acquaintance with him there, I am particularly interested in the matter. All I ask for is an impartial investigation, free from the influences which pervade the district in which this crime was committed."

Attorney General Raney: "An investigation will at once be authorized and the honourable member will be summoned as a witness."

Mr. Lewis expressed his satisfaction with this announcement.

A. C. LEWIS, IN ADDRESS RE CAPT. HUSTON'S DEATH,
ONTARIO LEGISLATURE, APRIL 27TH, 1922.
(*Latter portion*)

Mr. Lewisand everybody in connection with that company has been most active in endeavouring to show that this was suicide.

Now an effort was made, a statement was made, presented to the public, that in the first place endeavoured to show that Capt. Huston's mind had been unhinged by reason of war service, and probably that was the reason he did away with himself, and when, on the contrary, it was proven that he was a man in full possession of his faculties, the next insinuation made against his memory was that he had been in debt. I have a letter here from Capt. Huston's sister, a young lady who also did excellent service during the war, and gave her time in the hospitals of this country during the war. I am not going to read it all, because this is not a letter for publication:

"I am positive Orville was murdered and,"—well, I won't read on. I am not going to go as far as what she has said in this letter:—"If he had debts I cannot understand why, for he was credited with from \$12,000 to \$15,000..... and he had lived on his farm and at home where expenses were small until the end of June, and to spend the money he is credited with spending—I think it is positively ridiculous."

This man had \$12,000 to \$15,000 to his credit at the bank at the beginning of last year and they tried to say he is in debt. He was single, lived at home on the farm, lived the simple life, and those who knew him know the kind of life he lived, and he was not a man to spend money wildly and recklessly. The effort has been made to blacken this young man's character and no real effort has been made by the proper department of this Government to relieve it from the state, and the people of this Province, Mr. Speaker, and the returned men of this Province, and the friends of Orville Huston, want to ask the Attorney General why there was no investigation of this case for six weeks after the shooting occurred, and they want to ask him why no reward was offered—

HON. MR. RANEY: Might I remind the honourable member that an inquest was held on the 20th of December, five days after.

MR. LEWIS: That is not an investigation.

MR. RANEY: Oh, it isn't.

MR. LEWIS: It is not an investigation; it showed no results at all; I know as much about that inquest as you do.

They want to ask the Attorney-General why his Inspector, sent from Toronto to investigate this case, consulted with the lawyer for Mr. Backus before he left the city, and why, when he reached Fort Frances, he had firmly fixed in his mind the idea that this young man had committed suicide.

MR. RANEY: Who was the officer?

MR. LEWIS: The gentleman who is now going back to England, Mr. Jeffrey, the former inspector in the Attorney-General's Department, on the Provincial police force.

And I want to ask the Attorney-General why has Jeffrey gone back to England. I would like to ask, who suggested to Jeffrey that he should interview Mr. Harding before going up to Fort Frances, I would like to ask why no attempt was made to trace an ex-convict who was seen in Fort Frances on the day Capt. Huston was killed, and who disappeared the same night, and has not been seen since, a man who was known to the police of that section, and who also last year shot a detective in the employ of a lumber company whose limits certain officials of the Backus Company were investigating on their own hook.

MR. RANEY: Will the honourable member tell me again the date he says that Jeffrey went to Fort Frances?

MR. LEWIS: I think he was detailed on the 18th of February.

MR. RANEY: Yes, well I have here a report from the Deputy Attorney-General, which states as follows: "On the 20th of December, 1921,———"

MR. LEWIS: Is this a question?

MR. RANEY: I want to set you right on the facts.

MR. LEWIS: Well, the Attorney-General can make any statement he wants afterwards.

MR. FERGUSON: The Attorney-General will have ample opportunity.

MR. RANEY: No, I want to—

MR. FERGUSON: But we have got to observe the rules somewhere.

MR. LEWIS: I think I have the floor, Mr. Speaker.

MR. RANEY: I think I have the right to speak to a question of privilege, Mr. Speaker, when the honourable member is misstating facts—facts affecting me personally.

MR. SPEAKER: I should say in a matter of grave importance the honourable member should extend that courtesy to the Attorney-General.

MR. LEWIS: Mr. Speaker, nobody realizes the gravity of this matter more than I do, and that is the reason I am bringing it before this House, and I have no desire to prevent the Attorney-General from presenting any facts. When I say that I think Mr. Jeffrey was detailed on the 18th of February it may have been two or three weeks earlier. I took my facts in the case from a report I received from Fort Frances, that on the 18th of February Jeffrey arrived there to assist in the investigation, and if the Attorney-General tells us he went two weeks earlier I will not try to dispute it.

MR. RANEY: I am now stating the facts——

MR. FERGUSON: The Attorney-General has an opportunity of speaking in the regular way.

MR. LEWIS: I do not wish to prevent the Attorney-General from speaking, and I do want to get through and I am almost through now, and then the Attorney-General can speak.

MR. RANEY: I desire to state the facts now, with your permission, Mr. Speaker.

MR. LEWIS: Do you rule I must give way?

MR. SPEAKER: I so rule.

MR. RANEY: Then, Mr. Speaker, I have a report dated—

MR. FERGUSON: Just a moment.

MR. RANEY: Now, Mr. Speaker, the honourable member for Grenville has pointed out himself that after the Speaker has ruled—

MR. FERGUSON: Then I am in this position. The rules of this House can only be suspended with the unanimous consent of this House. There are more than one member objecting to the suspension of the rules. I ask you, can the rules of the House be suspended without the consent of all the members of this House in order that the Honourable the Attorney-General can go on.

MR. SPEAKER: I might say it cannot be; I will also point out that a question of privilege can be taken by anybody by unanimous consent of the House.

MR. FERGUSON: It is not a question of privilege.

MR. RANEY: I am standing on the ruling of the Speaker.

MR. FERGUSON: Well then, I will appeal from the ruling of the Speaker. I do not desire to do that but if the rules are to be disregarded by the Attorney-General I will appeal from the ruling of the Speaker, because the rules are quite clear.

MR. PINARD: Mr. Speaker, will you quote the rule upon which you base your opinion.

MR. SPEAKER: I am not basing my opinion on any particular rule, but I do say honourable members should remember that time and again other members have had the same privilege of doing what the Attorney-General has asked the privilege of doing now.

MR. LEWIS: I would like to point out that I have already suffered from lengthy interruptions from the Attorney-General. I am almost through with my speech.

MR. TOLMIE: Mr. Speaker, I would like to ask you to state definitely what the point of the ruling is that we may know exactly on what we are going to vote.

MR. SPEAKER: I think this is a very important matter that is being discussed. The honourable the Attorney General desires to bring out one point, as I understand it, and I think the House, as a matter of courtesy, when the charges are so grave, or the case is as grave as it is, should extend that courtesy to the Attorney-General, irrespective of any rules.

MR. FERGUSON: My point of order is, the rules of this House, as you have agreed, are such that it is only with the unanimous consent of the House they can be suspended. The rules do not provide for interruptions of this character. I am asking you, can the rules of the House be suspended to permit the Attorney-General to make a statement without the unanimous consent of the House.

MR. SPEAKER: My answer is, technically they cannot, but I am appealing to this House to hear this statement of the Attorney-General.

MR. FERGUSON: Well, that is a different thing.

PREMIER DRURY: It seems to me ordinary courtesy, and I think the feeling of the House, is to allow the member to correct misstatements at the time it is made. A statement has been made by the honourable member for North-east Toronto that no action was taken towards sending an official of the department to make an investigation until two or three months after it occurred. The honourable the Attorney-General wishes merely to set that right. I take it my honourable friend the member for North-east Toronto wants the actual fact. If he does, why not permit the Attorney-General to make his statement?

MR. FERGUSON: Because my honourable friend says he will be through in a few moments and the Attorney-General can then make his statement.

PREMIER DRURY: Well, I think this thing is altogether too grave to be merely hustled over and raise a nice point of order. I would like to point out to my honourable friend from Grenville, that in speaking the other day, the Attorney-General, in speaking with regard to the administration of the Ontario Temperance Act, was interrupted no less than 52 times, and my honourable friend from Grenville was on his feet many times. This thing is so grave it seems to me we should be careful about making statements not in accordance with the facts. The Attorney-General merely wishes to draw attention to certain facts, and I would appeal to the House to allow him to do so.

MR. McBRIDE: The question before the House is not a question of courtesy, but of interpretation of the rules of this House. The honourable member for Grenville raised a point of order, and I submit I am in order in debating the question because there is an appeal from your decision, and a point of order may then be debated. The honourable member for Grenville raised the point that the Attorney-General had no right to interrupt by way of statement the speech of the honourable member for North-east Toronto, and that the honourable the Attorney-General can only get the floor by virtue of the courtesy extended to him by the member for North-east Toronto. If I understand your ruling, and I think possibly you misapprehended the point taken by the honourable member for Grenville, you ruled that the honourable the Attorney-General was entitled to the floor in defiance of expressed wish of the honourable member for North-east Toronto that he be allowed to continue his remarks.

MR. NICKLE: It seems to me that the member for North-east Toronto was not unreasonable by way of courtesy in insisting on his right to speak. If the Attorney-General will permit him to conclude his important remarks on this particular subject he will then give way to the honourable the Attorney-General and let him place before the House the facts as he, the Attorney-General, understands them. Now I should be very loath indeed to vote against the ruling of the chair, but I cannot bring myself to see it from this point of view, that a courtesy should be extended by one member to another, and must be respected in defiance of the rules of the House, which distinctly state that when an honourable member has the floor he does not necessarily need to give way to a question unless he so desires. The courtesy of general debate demands that from time to time we allow—I am making a speech because I am in order to do so—the courtesy of debate demands that from time to time members permit questions to be asked, and I should be sorry to see that courtesy departed from, but if I might make a suggestion that I think might obviate the suggested appeal as a waste of time that is valuable, possibly the Attorney-General would permit—permit is hardly the right word—possibly the member for North-east Toronto might be allowed to conclude

his remarks on this subject and then give way for the Attorney-General, the member for North-east Toronto then resuming the debate, if he feels inclined.

MR. LEWIS: I think perhaps I can clear this whole matter up. After looking over my notes I am willing to concede to the Attorney-General that Jeffrey was in Fort Frances during the early part of January, but for a very brief time, and that he was detailed again on the investigation about the middle of February, but that does not alter the point—it rather intensifies the point that I am making, that the investigation conducted by the Attorney-General's Department into this case was most superficial, that the man who was detailed for that investigation conducted whatever investigation he did conduct, with his mind made up that it was a case of suicide; he was determined he was not going to find a case of murder and that he so impressed the foreman of the jury who sat on this inquest.

I am through. I just want to say this; that this young man, a man who went overseas in the first year of the war and did splendid service for this country, who was twice wounded in France, and who came back here and entered into a straight business deal as a result of which he met his death, that his character has been blackened and his family has suffered under the disgrace of the imputation that he took his own life when all the evidence that was easily accessible to anybody wishing to carry on a real investigation, pointed to the fact that this young man was murdered. And, in fact, the residents of Fort Frances, those not under the control of this one company, are firmly convinced in their own mind, that the man who did the actual shooting was seen in that town on the day Huston was killed, and has not been seen since; and that the evidence all points to the fact that this man, this company—and, Mr. Speaker, I want to be very clear; what I am saying is that it was in the interest of this one man to secure the papers that Capt. Huston had. Now whether he met his death as a result of a struggle actuated by a desire to secure these papers, I do not know; but suspicion certainly points that way, and the evidence all points to the fact that this man used his influence, and he has evidently tremendous influence not only with this Government in the matter of timber limits but other ways—

HON. MR. RANEY: Who has?

MR. LEWIS: Mr. Backus—that this man used his influence to spread the report that Capt. Huston committed suicide, to fill the minds of the Government investigators that Huston committed suicide, and to burke a proper investigation of the case by the authorities in this case.

Now, if the Attorney-General wants to make a statement before I proceed with one or two other points I am prepared to give way:

ATTORNEY-GENERAL RANEY: I purpose, Mr. Speaker, merely to read a report made to me by the Deputy Attorney-General, of the 22nd of February, 1922, into this matter: (reads)

“You instructed.....

.....ever since.”

That is, a provincial constable was on the job at once, Mr. Campbell. Now that is the part to which I am going to call the honourable members attention: (reads)

“On the 28th of December, 1921.....

.....doubtful.”

Now I read the findings of the Coroner's jury: (reads)

“We the jury.....

MR. DEWART: Practically an open verdict.

MR. RANEY: I may say the Government offered a reward of \$1,000. The advertisement reads as follows: (reads)

So far from it being true that the Department was not getting into this matter, the Department, through Campbell on the ground.....(not heard)came to Toronto that there was no doubt about the case being a case of suicide, a Scotland Yard man, Inspector Jeffrey, was sent to Fort Frances to assist in the investigation.

MR. DEWART: Is he still in your employ now?

MR. RANEY: That question is not relative to this inquiry and the honourable member knows that it is not.

MR. DEWART: Is he still in Canada?

MR. RANEY: That question was also answered by the order paper.

MR. DEWART: Why did you allow him to go when you knew these matters were under consideration?

MR. DEWART: Just one other question. I ask my honourable friend what was the ground upon which he was dismissed. I understand it was a case of accepting a bribe. Is that in connection with this matter or another case?

MR. RANEY: That matter has been all exhausted.

MR. DEWART: No answer?

MR. RANEY: No, we have no answer; I am not aware whether Jeffrey had received a bribe or not. He was accused by bootleggers of having been bribed by them. Investigation was under way after he had resigned, and, owing to the illness of the Commissioner of Police it was not proceeded with.

MR. DEWART: Does my honourable friend not see the issue as to the whole credibility of Jeffrey in connection with this report

MR. RANEY: Whatever my honourable friend thinks about that he is entitled to his own opinion.

I was aware, of course, that articles, columns of articles, appeared in one of the Toronto newspapers regarding this matter. I was not aware until the honourable member for North-east Toronto, made his speech, just what was behind these articles. Apparently the writer of those articles did not dare suggest in the open what has now been conveyed by the honourable member for North-east Toronto—a very clear suggestion that this young man's death was brought about by a person whom the honourable member for North-east Toronto has named.

MR. LEWIS: Mr. Speaker, a point of order. I gave way in order that the honourable the Attorney-General might make a statement of fact, certain statements of fact. I do not propose, unless you so rule, to sit here and allow him to make imputations.

The explanation, the statement the Attorney-General has made on behalf of his Department bears out exactly what I have been saying to this House this afternoon. He has simply gone over the statement I have presented to the House. I have simply been endeavouring to show what occurred and what has been done, and how little really has been done, to clear up this matter. The fact that the Provincial Inspector who was detailed to investigate this case has since been discharged, or allowed to resign, while he was under investigation, disqualifies his entire activities in connection with the case and any report he may have made.

The fact that the man impressed such a man as the foreman of the jury at Fort Frances when he had made up his mind that this was suicide, throws out of consideration any investigation he may have made.

Now I am not going to try this case in this House this afternoon. I simply have been presenting such facts as I have been able to gather, and owing to Capt. Huston's overseas service, and my acquaintance with him, I felt, as a fellow soldier, it to be my duty to clear his memory of any stigma. All I am asking is that an impartial investigation be carried on by the Attorney-General's Department into this matter. I do not ask for a reopening of the inquest, it is not necessary, but I would ask that an impartial investigation into this matter be carried on, and away from the influence that permeates the district where the crime took place.

ATTORNEY-GENERAL RANEY: Investigation will be authorized at once, so far as the law permits, and the honourable member will be summoned as a witness.

MR. LEWIS: I am delighted to hear it, that the Attorney-General will conduct an investigation, because it is coming to his memory and his family that it should be cleared.

With that assurance from the Attorney-General, there is no reason why I should take up any further time of the House dealing with that matter.

The event concerning which the speech was made and out of which this inquiry has eventually been directed was the death of Captain Orville Huston, on the 16th of December, 1921. In the early morning (shortly after midnight) the body of Captain Huston, a returned veteran of the Great War, whose home was in Winnipeg, but who was temporarily staying at the Emperor Hotel, in the town of Fort Frances, Rainy River district, was discovered between a shed and a beaten pathway which was a short cut over part of the road between the hotel and the railway station. Captain Huston was dead as the result of a bullet wound through his heart. The facts and circumstances surrounding his death will be dealt with later and at length in this report.

It is somewhat difficult to summarize the charges made by Mr. Lewis as reported in the *Mail* and *Telegram* and as set forth in the verbatim report of part of his speech, but I think I am putting the matter fairly when I state them as follows:

(a) That the Department of the Attorney-General of Ontario and its officers were culpably negligent in failing to investigate actively, diligently and properly, the circumstances surrounding the death of Captain Huston, and that the Department rested under grave suspicion of not having endeavoured to bring out all the facts of the case.

(b) That efforts had been made and action had been taken by E. W. Backus, the Backus companies and their employees and by R. T. Harding, K.C., one of the lawyers of E. W. Backus, to improperly prevent the Attorney-General's Department or some officers or employees thereof from getting the true facts and circumstances connected with the death of Captain Huston, and

(c) That Captain Huston was murdered and that E. W. Backus was so interested in securing certain papers said to be in the possession of Captain Huston, that he was responsible for the death of Captain Huston, or in some way accessory to same.

The Commission has conducted this inquiry during the period from May 5th, 1922, to the following 5th of June, and has held sittings and taken evidence in

Toronto, Fort Frances, and Winnipeg. Notice of sittings of the Commission previously appeared in the newspaper publications in each of these places, and by such notices and verbally at the sittings, a general invitation was given to everyone who had any information or facts, or information which would lead to facts, bearing upon the matters to be inquired into under the Commission, to attend and give evidence and the fullest opportunity was given to everyone who knew anything or could give information leading to knowledge affecting these inquiries to attend and give evidence. In addition I found Mr. Waldron, K.C., counsel appointed by the Attorney-General, and Mr. Coe, the secretary to the Commission, at all times desirous and willing to carry out any suggestions which I had to make which I thought would lead to obtaining evidence of value to the inquiry.

Mr. E. W. Backus was represented by Mr. Hellmuth, K.C., and Mr. H. S. White, K.C. and Mr. D. L. McCarthy, K.C. and Mr. R. E. Laidlaw attended as counsel for the *Evening Telegram*, not for the purpose of taking part in the inquiry, but for the purpose of watching their clients' interests.

In his evidence before me, Major Lewis repeatedly asserted that the sole and only information which he had at the time of his speech and upon which he based his charges, was information obtained by him from the *Telegram* and the *Star* newspapers and a certain special report on the facts and circumstances surrounding Captain Huston's death obtained for him by Mr. John R. Robinson, the Managing Editor of the *Evening Telegram*, from Col. Porter, the *Telegram's* correspondent at Winnipeg, and it will be necessary, therefore, to refer to these papers and this Porter report, for the purpose of ascertaining the information Mr. Lewis had when he made his speech with reference to the charges made and summarized above. The *Telegram's* articles on which he relied are to be found in exhibit "1" and Mr. Lewis has identified the *Star* issues as of March the 13th, 14th 15th and 16th last.

These articles are numerous and most of them lengthy, and I do not propose in going through them to set forth the facts relating to and surrounding Captain Huston's death and which are set forth fully in the speech, but those which, so far as I can see, Major Lewis would contend lent support or colour to the charges against the Attorney-General's Department, against Mr. Backus and connected with Mr. Harding.

In the *Telegram* article of the 13th of January last, which appears to be founded on a despatch, said to be a Staff Special from Winnipeg, under the heading "Suicide Theory Cultivated," it is stated that between the night of the tragedy and the inquest rumours of unknown origin were given widespread circulation in both Fort Frances and International Falls that Captain Huston had committed suicide, that Huston was well-known in both places and that a brother of the victim hurried to the scene but could get no information as to the origin of the suicide rumour. Further it is set forth that the Veterans were aroused and were asserting that if the Ontario Government could not offer a reward, they would, and that they would employ detectives, and that the mystery was then a month old and there was no sign of an early solution by either the Provincial or local police officials.

The next *Telegram* article is in its issue of the 3rd February last, which was written by Mr. Irving Robertson and was compounded of a story written by Mr. Sabiston connected with Captain Huston's death, an interview of Mr. Sabiston (reporter for the *Telegram*) with Mr. Lewis and a report from Col.

Porter. Apparently the report from Col. Porter which went into the making of this article was the one referred to by Mr. Lewis in his evidence as the special report on which he relied. This article is quite lengthy and sets out, among other things, that an assurance had come from the Attorney-General's Department that its futile effort to find who had killed Captain Huston had been renewed, and that in the Ontario Legislature Major Lewis would at the earliest opportunity ask why so much grass was allowed to grow or so much snow was allowed to accumulate before the clues which might have solved the north country puzzle were *held up* by the authorities who were supposed to enforce the law throughout the Province. Then the article speaks of inaction on the part of officials on the Honourable Mr. Raney's pay-roll, criticism of the poor tools given General Elliott, Commissioner of Police, to work with, and an impending change with reference to same and questions as to what had held up a searching probe into Huston's death and why the Attorney-General had offered no reward that might elicit other clues to Huston's death. The article proceeds to state that Major Lewis proposed at the ensuing session to bring the matter up and compel the Attorney-General to lay before the Legislature all the information on the files of his Department which the members might decide would help in the solution of the tragedy, and to place before the Legislature the queer circumstances connected with Huston's death. The respective theories of murder and suicide were then discussed and Major Lewis' views with respect to same and certain questions with reference to same which Major Lewis was asking. Then follows the suggestion that a document lying about the dead man's body indicated the trail to a possible starting point in an inquiry, a duplicate of which document was locked up in a vault in Winnipeg, and it was indicated that a following up of this clue would have given information why Huston went to Fort Frances and International Falls and whether he went in contemplation of suicide or in expectation of danger. (In his evidence Lewis states that he had no information as to this document and that it was no part of his interview). Then follows further criticism of the Attorney-General's Department as to the investigation of the documents mentioned above being belated and additional criticism, all to the effect that the action of the Attorney-General's Department in this case was inactive and inefficient. The article then indicates that Major Lewis would bring up the Government's responsibility for not clearing up the mystery when the House met and Major Lewis commits himself to the theory that Huston's death was not suicide but murder and he gives various reasons for adopting that conclusion similar to those set forth in his speech.

Following this is the *Telegram* article dated February 6th, 1922, a news article. This article criticises the Attorney-General's Department for dilatoriness and states that it passes the buck to Crown Attorney Croome for having failed to notify the Department when Huston's death happened. Then there is further criticism of the Department for not offering a reward, stating that the entire community believed that it was a case of brutal murder and yet no reward offered. Then there is a statement that Huston had determined to go to Fort Frances and International Falls to force fulfilment of certain pulp contracts which had been repudiated and that he had prepared a resume of correspondence relating to the contracts and the freight rate negotiations for publication in a Winnipeg newspaper and that it was understood he had threatened to publish this if the agreements made with him were not lived up to, and that armed with these documents he made his last journey alive. It is next stated that some papers which he had were scattered about the field but a considerable distance from his dead body, that it

was not known what papers were extracted from his pockets and taken away by his assailants, but that it was known that all the original documents, from which the papers he had on his person had been compiled, had been left in a Winnipeg safety deposit vault with his solicitor, who had been appraised of all the circumstances. Then the article winds up with the query "What is in those papers?" "What do they discuss and whom do they involve?" Then follows further criticism of the Attorney-General for inaction and stating that if the matter was not taken up before the House opened it was expected that the whole matter would be thrashed out in the Legislature when Major Lewis brought the matter up.

The next is a *Telegram* article of the 7th of February last which appears to be a special from Winnipeg, in which it is indicated that those in closest touch with the tragedy felt that the papers relating to his (Huston's) pulp transaction and his negotiations with the Dominion Railway Board for special freight rates, which were deposited with his solicitor, Col. Morley, prior to his fatal trip to International Falls and Fort Frances, would reveal a motive for the crime, and then a number of queries followed, among others, "Why were those papers so important to some other people that robbery was attempted and murder executed to obtain them?" "And who are those people who instigated and executed the fatal hold-up?" "What are the contents of those papers and what other persons and the affairs of what other persons are discussed in them?" And the suggestion is made that the Ontario Government had not shown great alacrity in getting to the bottom of the case.

The foregoing is followed by an article in the *Telegram* of the 8th of February, 1922, which also purports to be a special from Winnipeg. This consists entirely of an interview with Mr. D. L. Huston, of Winnipeg, brother of the deceased, discussing at length the murder and suicide theories and the reasons why he thought it was a case of murder.

Then there is a further article of the 8th of February last which purports to be a special from Winnipeg, indicating that Veteran organizations were displaying interest in the failure of the Ontario Government to offer a reward, and with reference to a resolution handed that day by C. G. McNeil, General Secretary of the Great War Veterans urging the Ontario Government to offer a substantial reward for the apprehension of the murderers of Captain Huston, and the article further states that Mr. McNeil said the resolution was being submitted to the Provincial Commandant at the Winnipeg Branch and that copies were being sent to the Fort Frances Branch.

Following this is a lengthy article in the *Telegram* of the 13th of February last, purporting to be a special from Fort Frances. This article states that the people generally express amazement over the failure of the Government after seven weeks to offer a reward, that Constable Campbell had stated that he had traced the origin of the suicide rumours, and thinks they originated across the river and knows that some interests apparently had motives to contribute to their circulation but that why, and the basis of the motives, he could not say. In this article the murder and suicide theories and arguments are exploited and the respective views thereon of Constable Campbell and Chief of Police Wall given. The opinion of W. H. Elliott, editor of the Fort Frances Times, that it was a case of murder is also given, and his opinion that more vigorous methods should have been adopted when the body was found and indicating certain steps he thought should have been taken.

Next is an editorial in the *Telegram* of the 16th of February last, headed "Rip Van Winkle Attorney-General of Ontario," comparing Quebec justice in the

Delorme case and Ontario justice in the Huston case, much to the superiority of Quebec justice, and attacking Mr. Raney as a Rip Van Winkle in so far as inactivity in connection with the Huston tragedy was concerned.

Then there is an article in the *Telegram* of the 20th of February, purporting to be a special from Fort Frances, indicating that demands were becoming insistent that the inquest into Captain Huston's death should be reopened, that new evidence since the inquest had been obtained, which was not called during the inquest. The article then deals with the offering of a reward of \$1,000, and states that it would be inadequate unless the inquest was re-opened, that part of this new evidence related to long distance calls received by Huston from Fort Frances shortly before his death, as to evidence with relation to these telephone calls and threats of rough stuff with reference to Huston if he went to Fort Frances, and then follows what happened to Huston when he went to Fort Frances and the scattering of his papers, etc., and the allegation that no effort had been made at the inquest to probe these telephone conversations. Statement is then made that Mr. Newcombe was a witness at the inquest but gave little information, and that his reticence was noted by the jury. Attention is also called to a statement found near Huston's body which was said to have been put in at the inquest but not read to the Coroner's jury.

Following this comes the *Telegram* article of February 24th last, which discusses briefly the decision not to reopen the inquest, as apparently it was thought that the new evidence could be ascertained by police officers.

As to the *Star's* articles from which Mr. Lewis obtained information, the first article is in its issue of the 13th of March last. This purports to be a special from Fort Frances by a Staff Reporter of the *Star*. It consists practically altogether of a resume of the facts connected with the death which appeared at the inquest with the exception of the alleged strong armed methods of which he had been informed by telephone at Winnipeg. In this article there is one clause headed "Was he double-crossed?" and refers to a statement of Dr. McKenzie, of Fort Frances, to the effect that some papers had been found in Huston's pocket, among which was a telegram addressed to Premier Meighen, making the claim that the deceased had been double-crossed by some company, and the Doctor adds "I decided that the unfortunate young fellow must have been slightly demented." There is also in this article a statement that some persons in Fort Frances averred that the slaying was the unforeseen outcome of an attempt to rob Huston of certain contracts and mysterious documents which he had claimed to have in his possession. The article also indicates that Fort Frances was divided into two camps, one supporting the murder theory and the other the suicide theory.

Then in the *Star* of March the 14th there is a further article being a despatch from Fort Frances by the *Star's* Staff Reporter, and evidently a continuation of the story in the previous day's paper. This article is a very complete resume of the facts which the Staff Reporter appears to have learned surrounding the death of Huston, and practically all, if not all, of which were brought out at the inquest, and it contained the statement that Huston, whose home was in Winnipeg, was an employee of the Minnesota and Ontario Paper Company, one of the Backus enterprises, whose head office was in International Falls just across the Rainy River, and opposite the plant operated in Fort Frances by the same interests, that the evidence adduced at the inquest showed that Huston was getting a salary of \$250 a month with travelling expenses, and that he had been taken on last spring as a

prospective buyer of pulp wood in northern Manitoba and Saskatchewan upon his assurance that he could get sufficient reductions in freight rates to make such a scheme feasible.

Following this is the *Star's* article of March 15th last, from Fort Frances, and apparently a continuation of the story of the Staff Reporter, and this article deals almost entirely with conflicting expressions of opinion by persons and officials in Fort Frances as to the theories of murder and suicide.

The last *Star* article which Lewis claims to have got information from was the article of the 16th of March last and is also a continuation of the Staff Reporter's special from Fort Frances. This article deals with the views of the officials of the Minnesota and Ontario Paper Company, one of the Backus companies, with regard to Captain Huston's death and states that they were unanimous in their belief that the tragedy was a straight case of suicide. In this article it is stated that Mr. Newcombe, Vice-President of the above Company, and Mr. J. M. Monahan, the comptroller, had made certain statements as to financial relations between Huston and the Company and which would appear to show that Huston had by unwarranted statements obtained from Mr. Monahan \$500 which had not been repaid, also some further statements as to smaller amounts. There is also in the article a statement attributed to Mr. Newcombe as to what occurred when Huston dined with him and certain other officers of the company on Tuesday, December 13th last, the effect of which is that Huston resigned his position with the company because complaint was made as to the above-mentioned cheque of \$500, and also an alleged statement of Huston's, said to be unwarranted, that Huston would be given an increase of salary of \$100 a month, that Newcombe stated that that was the reason of Huston's resignation, and not by reason of any controversy over pulp wood. The article further gives Mr. Newcombe's statement as to any communication between Huston and the company with reference to the matter of obtaining a reduction in freight rates, and the matter of purchase of pulp wood in northern Manitoba and Saskatchewan Points. The article further gives Newcombe's statement with regard to the question of reduction of freight rates at Ottawa and the work which Huston had done with reference to same and the results. This article also states that Newcombe said that Huston was, while working on the freight rates question, receiving a salary of \$250 a month with expenses, that that was to cover all his services and that no commission was being given him for any pulp wood which he might buy for the company. The article further states that it was claimed that Huston had thrown up his position because the company would not authorize the purchase of a full 25,000 cords, and that Mr. Newcombe stated that the acquisition of such quantity of pulp wood was not desirable until such time as arrangements were completed for a new wood pile and piling ground on the Canadian side of the river. Newcombe it is alleged further stated that Huston had expressed some annoyance over the delay, claiming that it would make him appear foolish in the eye of the people out in his own part of the country, before whom he had been talking a good deal concerning the magnitude of the business deals in which he had been involved, and the article concludes by stating that both Mr. Newcombe and Mr. Monahan were unanimous that there was no doubt in the world but that Huston had committed suicide.

It is not feasible, owing to the length of the foregoing articles to quote them in full, as I would have preferred to do, but I have endeavoured to indicate anything which might have operated on the mind of Mr. Lewis in respect of the charges which he made in his speech.

The only other information which Mr. Lewis had was the document mentioned above received through Mr. John R. Robinson from Mr. Porter (known as the Porter Report) and unfortunately it has been impossible to get this document although very persistent efforts have been made to obtain it. From the information which Lewis states was contained in this document it was of the first importance that the document itself should be produced, if it was possible to get it. The evidence of Major Lewis with regard to this document is that when he first saw the account of Huston's death in the January 13th article of the *Telegram* he went to Mr. John R. Robinson, the Managing Editor, and asked him to get a special report from Col. Porter, the *Telegram's* representative in Winnipeg, with reference to Huston's case and that Mr. Robinson agreed to obtain it for him. He gives as his reason for going to Mr. Robinson that he had been at one time a reporter on the *Telegram* and the evidence shows that he was on intimate terms with the *Telegram* officials and frequently visited the *Telegram* office. Lewis states that his sole object in obtaining the report was to endeavour to clear Huston's memory of the charge of suicide. He fixes the date of his going to Robinson to get him to secure this report as the latter part of January or the early part of February, that it was subsequent to the 13th of January and before the *Telegram's* article of the 3rd of February appeared. He states that this report came from Porter to Robinson and was sent by Robinson to him, being actually brought to him, he thinks by Mr. Sabiston, one of the reporters of the *Telegram*. He states further that this report is not now in his possession, that he returned it to Mr. Robinson, that he didn't keep a copy, that he made notes of it which he had at the time of his speech but has since lost or destroyed and that he can give no reason for returning the report to Mr. Robinson. He states that he was interviewed by a *Telegram* reporter (Mr. Sabiston) within a day or two after he had received the report, and that the reporter took the report back to Mr. Robinson. He states that the report was a type-written document which he thinks was accompanied by letter but is not certain as to that. He further states that he doesn't think it was a report intended for a newspaper article and he didn't see the instructions given by Mr. Robinson in asking Porter for the report. He thinks Mr. Robinson wired for it but he didn't see the wire. Another important matter is that it seems quite clear from Lewis' evidence (page 101) that this report forms part of or was used in the composition of the *Telegram* article of the 3rd of February.

Counsel for the *Telegram* undertook to have a search made in the office of the *Telegram* for this report or any other documents which were in the possession of the *Telegram* and which had served as a basis for the articles they had published and subsequently stated after a thorough search had been made that the only papers in the possession of the *Telegram* were those then produced and marked Exhibit 4 and which contained nothing but clippings from various newspapers. It was explained that despatches which come in by wire and copy are held a month and then destroyed.

The evidence of Mr. Sabiston, reporter on the *Telegram*, with reference to the Porter report is that he was instructed by John R. Robinson to take the Porter report to Major Lewis and show it to him; that he did so and talked with Mr. Lewis who read some portions of the report to him, that the whole report was never read to him and that he never read the whole report. He

states in cross-examination that he got the report from Mr. Bretz, the City Editor of the *Telegram*, apparently on instructions of John R. Robinson, and took it back to Mr. Bretz.

Mr. Bretz, the City Editor of the *Telegram*, was examined with reference to this Porter report and according to his evidence, he had no knowledge of it and apparently has no recollection of it. He does not recall giving that report to Sabiston to give to Lewis or sending it through Sabiston to Lewis or of getting it back from Sabiston, and later he states in his evidence that he didn't give Sabiston any Porter report to give to Lewis and did not receive any back and he states he might have got this report and sent it on to Mr. Irving Robertson, Mr. Robinson or Mr. Knowles, the latter being one of the *Telegram* editorial writers. He does remember however, a Porter despatch which he passed on to Mr. Irving Robertson on account of its contents and length and states that he thought it was of such a nature that it ought to be submitted to Mr. Robertson, that he, Bretz, edited it and had it put in type and sent it on to Mr. Robertson. He cannot fix the date of this but from his evidence it would look as if this was the despatch from which Mr. Irving Robertson re-wrote the *Telegram* article of February the 3rd (originally prepared by Mr. Sabiston). Mr. Bretz states he thinks Sabiston may be mistaken in saying that he, Bretz, got the report and that he knows nothing of the article of February 3rd in any way. He also states that he can recall only in a dim way the sending of Sabiston to Lewis, that he cannot recall it but thinks it would have happened and he cannot remember Sabiston returning with anything; then later, he states that he has a dim recollection of having forgotten to carry out an instruction to have Porter send a survey or summary of the Huston case and that this may have been what Major Lewis referred to.

Evidence was also given by Mr. Irving Robertson, one of the trustees of the Robertson estate, the owners of the *Telegram*, and a writer on the *Telegram*. He states that he re-wrote the *Telegram* article of February the 3rd, that Sabiston had first written a story and that a subsequent despatch came from Col. Porter, and, in order to bring them together and then feature the news feature and that Lewis was going to take this up in the House, it was necessary to re-write the story. The story as re-written was a combination of the information contained in the article as first written by Sabiston, the despatch mentioned above and Sabiston's interview with Lewis. In cross-examination by Mr. Hellmuth, Mr. Robertson stated that he saw the Porter despatch on which the article of February 3 was founded, that he had no knowledge of this despatch being got for Mr. Lewis, that he never saw anything that was a confidential despatch from Porter and that he had no knowledge of Mr. Lewis applying to get a special report.

Subsequent to the foregoing evidence with regard to this Porter report, after a contest before an Appellate Division of the Supreme Court of Ontario, certain telegrams between Col. Porter and the *Telegram* newspaper, produced by the C. P. R. Telegraph Company, were admitted in evidence and I was under the impression from the previous evidence given by the various witnesses from the *Telegram* and from certain internal resemblances in the Porter despatches produced as aforesaid, that the particular Porter report desired was one or more of the Porter despatches, especially as there was no telegram produced by the Telegraph Company showing a request to Col. Porter for a special report for Mr. Lewis. Mr. Lewis, however, swears positively that none of the

Porter despatches produced by the Telegraph Company is the document procured for him by Mr. Robinson and gives certain omissions in the contents of the despatches and other reasons as convincing him that the Porter report obtained for him is not among the produced despatches, and he states further that he never saw any of the despatches produced by the Telegraph Company and that they were never communicated to him.

At the sittings of the Commission in Winnipeg an effort was made to have Col. Porter attend and give evidence but after promising to attend and being present in the hotel where the sittings were held he failed to appear and no steps were taken to compel his attendance as there was doubt as to the power of the Commission to compel witnesses resident outside of Ontario to attend the sittings of the Commission.

Now as to the information which was contained in this Porter report obtained for Mr. Lewis, he states that it showed there were some business relations between Huston and Backus as to the purchase of pulp wood, with an intimation that Huston was very strongly exercised about the matter and had been corresponding both by letter and wire with Backus agents or officials and that as a result he had finally gone to Fort Frances to try and clear the matter up, that these business transactions were to the effect that an arrangement had been made by which Huston was to purchase pulp-wood in northern Manitoba sections for Mr. Backus, provided he could get a reasonable railway rate from these points, and that eventually he did secure a reduction in the railway rates which brought it within economical purchasing distance and was prepared to carry out his contract, Lewis cannot remember the exact details but the impression left on his mind from this report was that the relations between Backus and Huston were contractual. He states further that this report showed that Backus secured a reduction from his own timber limits in northern Ontario to Fort Frances which was more advantageous to him, that he could bring his own pulp wood in, and that he repudiated the arrangement with Huston. Then in answer to a question of mine Mr. Lewis stated that he thought Backus was buying this pulp wood not from Huston but through him. Mr. Lewis stated further in answer to a question I put to him that the impression he gathered from the report was that Huston had no financial interest in the purchase of the pulp wood but that he either had or was endeavouring to establish a market in northern Manitoba and was trying to procure pulp wood in northern Manitoba and proposing to find a market for that pulp wood and incidentally a business for himself by dealing with Mr. Backus.

Later in cross-examination by Mr. Hellmuth, Mr. Lewis stated that the first time there was any suggestion of E. W. Backus' name was in the Porter report and concedes the importance of the production of this report and later he again states that the Porter report was the one report in which there was a mention of Mr. Backus' name, also states later in cross-examination that the Porter report indicated that Huston was supposed to have documents or papers of some kind on his person which Mr. Backus wanted to secure or which it would be in his interest to secure, and that it was reasonable to investigate that phase of the question, and that it might have been as a result of that that Huston met his death, and later states that he thinks E. W. Backus' name was mentioned in the Porter report and that it was Mr. Backus' name and not one of his companies. He says that he understood the name mentioned in the report

was E. W. Backus, that he did not know any other Backus, and that this was set out in the Porter report, and later that he thinks that this was the first time he had seen Mr. Backus' name mentioned or heard of it in connection with the matter, that he could not say absolutely definitely but thought it was. Later, asked as to how often Mr. Backus' name occurred in the report of his notes of the report, says he thinks twice.

It does seem in the highest degree extraordinary that this mysterious and elusive report is not forthcoming and that Mr. Lewis venturing out on his proposed crusade should not have protected himself by retaining this report, procured for himself, or at least kept a copy of it.

I have gone into the foregoing with some detail for the purpose of showing just what information was in the possession of Major Lewis at the time his speech was made. So far as the Backus charges are concerned, the information which he had was entirely hearsay and the only hearsay evidence which he was possessed of, it seems to me, was the meagre information which he may have obtained from the Porter report.

In so far as charges against the Attorney-General's Department are concerned, the only information which he had was the criticism of the Department contained in the various issues of the *Telegram* mentioned above.

I propose to deal first with the Backus charges. Major Lewis has repeatedly made it clear that he had no other sources of information than the newspaper articles of the *Telegram* and *Star* mentioned above and such information as he obtained from the Porter report, and that he had not made any effort to get any further information up to the time of his speech, although it is clear that he had his speech in contemplation and had obtained such information as he based his speech on as early as the 3rd of February. On this slim foundation he launched his charges in the House. The report of his speech seems to indicate that the main grounds on which he made his charges against Backus were (1) that E. W. Backus had broken a contract or business deal which he had made with Huston for the purchase of pulp wood, that Huston had threatened to make the transaction public and that he, Backus, was interested in securing certain papers and documents supposed to be on the person of Huston at the time of his death, and (2) that Mr. Backus used his influence to spread the report that Captain Huston committed suicide, to fill the minds of the Government investigators that Huston had committed suicide and to burk a proper investigation of Huston's death by the authorities; and connected with this is his statement that Inspector Jeffrey, one of the investigators detailed by the Government in this case, before going to Fort Frances had been in conference with R. T. Harding, K.C., a Toronto lawyer and alleged to be one of Backus' lawyers, and went to Fort Frances with his mind made up (apparently as a result thereof) that Huston had committed suicide.

In view of these charges and the grounds on which they were based it would be proper to trace the business relations of Mr. Huston with Mr. E. W. Backus or the Backus companies. Mr. E. W. Backus, I should say, is an American citizen who is evidently engaged in business enterprises in a very large way both in the United States and in Canada, principally in the State of Minnesota and the Province of Ontario. He is the President of the Fort Frances Pulp and Paper Company, Head Office, Fort Frances, Ontario; Keewatin Lumber Company, Limited, Head Office, Kenora; Minnesota and Ontario Paper

Company, Head Office, International Falls, Minnesota; and the International Lumber Company of International Falls and Spooner, Minnesota. The plants established at Fort Frances and International Falls span the Rainy River from the Ontario shore to the Minnesota shore.

Captain Huston enlisted in the Great War and saw active service for some years at the Front, returned after being twice wounded, was apparently engaged for some time ranching in Manitoba and in the spring of 1921 became interested, so far as the Sprague Rowland Lumber Company was concerned, in a contract between the latter and the International Lumber Company for the sale and delivery of certain pulp wood by that Company to the International Lumber Company, one of the Backus enterprises mentioned above. This brought him into contact with Curtis Williams, the chief buyer for the Backus companies, and through Mr. Williams he became acquainted with Mr. E. W. Backus about April, 1921. It appears that at that time one of the markets for purchasing pulp wood to be used in the Backus enterprises was Northern Manitoba, that the pulp wood industry was then, like most other industries, under a considerable eclipse, that the Backus people were pretty fully supplied with pulp wood and that the question of purchasing further in northern Manitoba was materially affected by the freight rates on pulp wood on the Canadian National Railway and the possible reduction of same. In the negotiations which followed between Huston and Backus, Huston expressed confidence that he could obtain a reduction of freight rates on pulp wood from Manitoba points and on the 25th of April, 1921, Mr. Backus as President of the International Lumber Company, wrote Mr. Huston a letter directed to Winnipeg in which he stated regarding Manitoba pulp wood that he expected to get all pulp wood needed during the coming year in the immediate vicinity of their mill and on their own lines at between \$7.00 and \$8.00 a cord f.o.b. the mill; that under the existing freight rate he did not believe Huston could furnish pulp wood anywhere near as cheaply as he could get it elsewhere, but that if he could induce the railway to reduce the freight rates to enable him to furnish his Company pulp wood at the above price of \$7.00 and \$8.00 per cord f.o.b. the mill, his Company would be willing to contract with him for from 25,000 to 50,000 cords and winds up his letter by stating that he would not consider Manitoba at all under the conditions as they then existed were it not that he wished to keep the pulp wood industry alive all over the country tributary to the Company's mill. Subsequently after further negotiations between Backus and Huston with reference to getting a reduction in freight rates an arrangement was made by which Huston entered into the employ of the International Lumber Company and this arrangement is covered by a letter dated May 19th, 1921, written by Backus to Huston, which reads as follows:—

"Following our long distance conversation of yesterday, will say it is understood that you are to join our organization for a period of three months at a salary of \$250.00 a month. When you are away from Winnipeg on Company business you are to be paid your out-of-pocket travelling expenses.

"It is understood that you are to give us the benefit of your entire time and energies in the hope that before the end of that period we will find it to our mutual advantage to continue the engagement. During this period you are to endeavour to get the freight rates on pulp wood from the Manitoba points in question to Fort Frances and International Falls reduced to a basis of around 8c. per hundred pounds, also during this period you

are to ascertain if during the coming winter we can purchase a substantial quantity of pulp wood on that basis of freight rate at around \$4.00 to \$4.50 per single cord f.o.b. cars.

"I hope you will succeed in meeting our expectations in these matters."

This apparently would mean that the producer would receive from \$4.00 to \$4.50 per cord less \$1.00 per cord which had to be paid as dues and the balance of \$3.00 to \$3.50 per cord would represent the freight rates at 8c. per hundred pounds, and this latter freight rate would involve the obtaining of a reduction of the freight rates of the Canadian National Railway of about 3c. per hundred pounds, the average freight rate at the time from Manitoba points being about 11c. per hundred pounds.

The view of Mr. Backus expressed in his evidence as to the situation at this time apparently was that Huston had no capital to contract independently, having lost according to his own story about \$27,000.00 by theft from his ranch in Manitoba, that the relation of Huston to his companies was that of an employee and nothing else and that in purchasing any pulp wood he was purchasing solely for and in the interest of the Backus companies and was not entitled to any side commission or profit or remuneration other than his salary. Immediately following this arrangement of the 19th of May, 1921, and possibly previous to it, Huston started and continued a very vigorous campaign for the purpose of obtaining a reduction on freight rates on pulp wood from Manitoba points. He got petitions, addressed to the Manitoba Government for a reduction, extensively signed by settlers, enlisted the active sympathy and efforts of Premier Norris of Manitoba and Mr. Dafoe, the Editor of the *Manitoba Free Press*, in all of which he posed as an independent contractor and took some pains by carrying on his operations in the name of Manitoba Pulp Company and otherwise, to disassociate himself and separate himself, so far as the public was concerned, as far as possible from Mr. Backus and his interests, the idea being that the chances of success in getting a reduction in freight rates would be much greater if it should appear that those pressing for it were really representing the settlers and not the mills. I do not know how far this was known to Mr. Backus or to the executive officers at his mills but I am inclined to think that they were probably quite willing that the matter should be dealt with in this way and indeed Mr. Huston in the document which is known as the red letter and which was the communication purporting to be addressed by him to Mr. Dafoe of the *Free Press* indicates that Backus gave him a free hand as to the details and presentation of the case for a reduction in freight rates. Whether the exigencies of his operations required it or not Mr. Huston was certainly not frank with those who were assisting him in his operations to get a reduction of freight rates. Mr. Dafoe of the *Free Press*, who gave his evidence with refreshing candour, tells us that he had been interested in Huston's activities to get a reduction of the freight rates, partly because he had known him as a small boy and had seen a good deal of him last summer and because he was interested as a public man in the reduction of the freight rates. He had various interviews with Huston through the summer of 1921 with reference to this question of reduction of freight rates and at one of them, after the article in the *Free Press* of the 15th of July last was published, Huston called at his office and Dafoe then told him that he had been informed that he was not an independent contractor but an agent of Backus. Huston denied that he was an agent of Backus and said he was in a contracting business of his own and that he could make a moderate profit on his contract. He further

told Mr. Dafoe at interviews in September and October last that the prices of pulp wood had slumped and there were chances of a further decline. He told Mr. Dafoe, however, that this did not impair his contract, that he had been to Fort Frances and he showed Mr. Dafoe a letter he had got at that time confirming a previous letter and he further stated that he could sell at \$8.00 f.o.b. the mill. Mr. Dafoe's impression was that this letter was signed Newcombe, who was Vice-President of one of the Backus companies, that it did not express terms but stated that the arrangement was still in force. This letter is very probably the letter which I will deal with later on and which is on the files of the Dominion Railway Commission at Ottawa. Mr. Dafoe had pointed out to Huston that *not* the Manitoba Government but the Dominion Railway Commission would have to deal with a reduction of freight rates and the various petitions mentioned above were filed with the Dominion Railway Commission at Ottawa and an application made by Huston for a hearing, and the evidence indicates that he was very active amongst politicians and public men generally in getting support for the hearing of his application for a reduction of freight rates on pulp wood at Manitoba points. This application was ultimately heard by the Commission at Winnipeg on the 8th of November. Huston was represented by counsel, various other interests including the Railway were also represented and judgment was reserved. No disposition appears ever to have been made of this particular application and it was probably merged in the application for a general reduction of freight rates which culminated in the order known as order No. 350 of the Board dated the 24th day of November, 1921, which was a general reduction of freight rates all over Canada so that from points west of Port Arthur and Fort William the rates became 20 per cent. instead of 35 per cent. over the rates in effect prior to September 13th, 1920. This order apparently did not cover freight rates on International business running over the Canadian National Railway to International Falls but an undertaking had been filed previously by the Minnesota, Dakota and Western Railway (controlled by the Backus interests) to reduce the rates on their road equivalent to the reduction to be made on Canadian roads, so that ultimately and shortly afterwards this reduction in rates applied on the Canadian National Railway to International Falls, and in all these matters Huston appears to have taken a very active part. The net effect of this reduction would be, generally speaking, about one cent per hundred pounds of pulp wood from the Manitoba points, while as shown by the Backus letter of the 19th of May, 1921, the reduction required to enable business to be done with the Backus interests was a reduction of from three to three and a half cents per hundred pounds and as Mr. Backus puts it in his evidence, instead of Huston getting what he set out to get he only obtained a reduction of from one-third to one-half of what was necessary. I think, however, on all the facts disclosed in the evidence including the file of the Dominion Commission it is fair to give Huston credit for the work which he did in connection with this matter of reduced freight rates and to say that his work formed some substantial share in the agitation which ultimately brought about the general reduction of freights of the 24th of November, 1921.

Then there are certain further letters passing between the International Lumber Company and Huston which have a bearing on the question of the relations between Huston and the Backus companies. The first is a letter dated the 21st of October, 1921, from Huston to International Lumber Company which reads as follows:

"I would refer you to Mr. E. W. Backus' letter dated April 25th, 1921, regarding your contract with me for some 25,000 to 50,000 cords of pulp wood in Manitoba. I will ask that you state your present position regarding this purchase and ask if you are still prepared to live up to your agreement of that date. The final hearing of the rate case will be up before the Railway Commission in Winnipeg on November 7th and I would appreciate your confirmation so that the moment a decision of the Commission is handed down I will be in a position *to either definitely close with you or cancel this transaction*. I am aware of the fact that you have a perfect right to cancel this transaction because of the fact that I personally assured you that the freight rate would be reduced if at all before September 1st in time for you to arrange your purchase schedules in your other territory. I have, however, been to great trouble and expense in getting this matter before the Commission and think you will appreciate my position and give me an extension of time in order that I may make one final effort to fulfil the contract. An immediate reply will be appreciated."

Then there is a reply to this letter dated October 27th, 1921, signed by International Lumber Company, A. N. Newcombe, Vice-President to Captain Huston at Winnipeg, which reads as follows:

"Dear Sir:—

"Replying to yours of October 21st regarding our present attitude as to the purchase of Manitoba pulp wood, I will say that owing to the mill having been closed the greater part of the summer we are in even better shape as regards the supply of raw material than we anticipated when we wrote you on April 25th. We only intend to purchase a small quantity of pulp wood in the immediate vicinity of our mill during the coming season because of this fact. The Railway Commission has been so dilatory in making their decision on the rate, we had decided there was nothing doing and that it would be impossible for you to furnish pulp wood along the lines of our April 25th correspondence. As you state in your letter, however, that you have been to a good deal of trouble and expense in getting this rate case taken up again and as you still think it will go through we hereby absolutely assure you that we will live up to our part of the agreement as outlined in our previous correspondence. You state that the Railway Commission will make its decision on or about November 7th so unless we hear from you definitely that the rate has gone through by November 15th, 1921, we will cancel our agreement as to the purchase of Manitoba pulp wood."

This is very probably the letter mentioned above shown by Huston to Mr. Dafoe.

Then follows a letter dated October 28th, addressed by Huston to the International Lumber Company which reads:

"Gentlemen:—

"It has occurred to me after looking over our correspondence that in view of the general depression in the pulp wood market the Railway Commission may think your offer not quite definite enough, although personally I

have absolutely no doubt that you will carry out your personal obligations as per our correspondence. Would you mind in view of the lateness of the season giving me a definite confirmation at this time."

Then there is a letter in reply to the last letter dated October 28th, 1921, written by the International Lumber Company, signed Curtis Williams, Assistant to Vice-President, and addressed to Captain Huston at Winnipeg which reads as follows:

"Dear Sir:—

"Replying to yours of October 28th we will purchase from you during the season 1921-1922 not less than 25,000 and not more than 50,000 spruce pulp wood at \$8.00 per cord f.o.b. our mill. It is understood that this pulp wood shall be purchased in Manitoba. This offer holds good until November 15th, 1921."

Mr. Williams' explanation of this last letter was that it was written by him in the Fort Garry Hotel at Winnipeg on the occasion of an interview there with Huston and at Huston's request for the purpose of being used before the Railway Commission at Ottawa, and that it was written without the knowledge and without the approval of any executive officer of the Company, that he explained this and that he had no desire to sign a letter to Mr. Huston at the time. It is quite probable, particularly in view of Huston's letter of October 28th, that it was obtained and used for that purpose.

The evidence of E. W. Backus, his son S. W. Backus, Vice-President Newcombe and other Backus officials is uniformly to the effect that there was no contractual relation between the Backus Company and Huston in respect of pulp wood, that he was in the position simply of an employee and that if he purchased pulp wood he did it as their employee and solely for their benefit and was not entitled to make any profit out of it, and this view has support from S. W. Backus' letter to Huston of December 9th, 1921.

The question of the precise business relations between Huston and the Backus companies is one that has caused me a good deal of trouble but after considering all the evidence given and the letters themselves I cannot rid my mind of the impression that, while there might not be a legal binding contract, the International Lumber Company were in fact holding out to Huston the promise that if the conditions of the letter of April 25th, 1921, could be lived up to, namely, that if by reduction of freight rates or otherwise the pulp wood could be purchased at their mill from \$7.00 to \$8.00 a cord they were willing, as they expressed it, to contract with him for from 25,000 to 50,000 cords, (otherwise it is difficult for me to understand the letter of the 27th of October, 1921, signed by Vice-President Newcombe) always provided, as stated in that letter, that the reduction on freight rates which would make the operation feasible went through by the 15th of November, 1921.

The correspondence leaves the terms of this arrangement in some respect vague and unsatisfactory but I think Huston did think that he had a contract or arrangement with the Backus companies, but, of course, always subject to the qualification mentioned above that there must be effective reduction of freight rates so as to warrant purchasing at the figures mentioned above and that this reduction would take place by the 15th of November. It is clear, however, to my

mind that at the time of Huston's death there was no binding contract or agreement between them, whether you speak of it as a legal or non-legal agreement, because there was no reduction of any kind in freight rates before the 24th of November, 1921, (which became effective on International Railway rates only in January, 1922) and in addition it seems to me, so far as I can gather from the whole evidence, that there was not such a reduction by the general order of the 24th of November, 1921, as would have enabled the purchase of pulp wood at the figures mentioned. I think also the evidence shows that Huston, if this arrangement with the Backus companies had gone through, although I am myself unable to see where he could have purchased so as to make a profit, did in fact anticipate making a good profit out of the purchase of this pulp wood and was keenly disappointed when the subsequent events occurred which resulted in his severing his relations with the International Lumber Company.

According to the evidence of Albert Newcombe, Mr. S. W. Backus and Mr. Williams, Mr. Huston was at International Falls in the latter part of November or the early part of December, 1921, and on that occasion there was a discussion between him, Newcombe and Williams as to the amount of pulp wood to be purchased in northern Manitoba during the ensuing season.

Mr. Newcombe's story is that he explained to Huston that their storage facilities at the plant would not warrant their taking such a quantity as a minimum of 25,000 cords, that being the amount which Huston wished to purchase, and that their Woods Department thought he would not be able to secure more than 10,000 cords, and finally after considerable discussion that it was settled that the amount to be purchased should not exceed 10,000 cords.

Williams states that at this interview with Huston and Newcombe he explained that it would be impossible for Huston to buy any considerable quantity at \$8.00 a cord f.o.b. the mill, and that finally he was satisfied with 10,000 as the amount to be purchased, the following this, apparently Huston went to Ottawa about some matters connected with the freight rates, returning to International Falls on the 5th of December. On the latter date, according to the evidence, late in the afternoon, he asked Mr. Monahan, the Comptroller of the Company for a cheque for \$500.00 in connection with certain payments which he claimed he had to make and stated that he had been authorized to get this amount of money by Mr. S. W. Backus and Mr. A. D. George, the solicitor of the Company. Monahan was reluctant to give the amount, but finally did so. Subsequently learning that this payment had not been authorized by Mr. S. W. Backus or Mr. A. D. George, Monahan wrote him on the 7th December, informing him of the position taken by Mr. Backus and Mr. George, that the Company were charging him with the \$500.00 and asking him to reimburse the Company.

On the 9th December, Mr. Huston replied to this letter stating that if he would refer to the telegram from Ottawa, he would see that he had wired that it would cost \$500.00 for that last item that he went East for, and finally closing his letter by stating that if Mr. Backus should be of the opinion that this expense was not justified he would personally stand the loss. Mr. E. W. Backus, Mr. S. W. Backus and other officials of the Company and Mr. George all disclaimed knowledge of any reason or authority for payment of this \$500.00. It is possible that Huston may have spent it for some purpose which he may have considered advisable in the interests of the Backus Company, but it seems

clear that he obtained the moneys under a misrepresentation of fact, and this amount and two other amounts, one of \$250.00 and the other of \$100.00 advanced for expenses, have never been repaid to the company although it is fair to say that the Company's officers think that Mr. Huston, had he lived, might have accounted for the two items making together \$350.00.

On the 8th day of December, 1921, Huston wrote Mr. Newcombe with reference to various matters connected with tariff rates, etc., and the concluding paragraph of the letter reads:—

“I have been thinking over the personal conversation I had with you before leaving the Falls last, and I wish at this time to sincerely thank you for the attitude you took then. So far as buying here is concerned I will spread the lot of 10,000 cords over such parts of the Province as require it most, and I will write you and make my recommendations that you allot contracts at certain points and with certain individuals.”

So it would appear that Huston was then quite reconciled to the restriction of the purchase of pulp wood in northern Manitoba to 10,000 cords, and there is another letter the same day from Huston to Mr. Williams with reference to other matters and particularly the Sprague-Rowland Lumber Company contract, and this letter is in quite a friendly tone and contains no complaint.

On the same day S. W. Backus wrote Huston a letter which must have crossed his two letters of the 8th December. In this letter S. W. Backus, confirming conversation of a few days ago, authorized Huston to purchase in the Winnipeg territory not to exceed 10,000 cords of green spruce wood at a price which would make it not more than \$8.00 per cord, f.o.b. the mill and *stated that all contracts made by Huston must be O.K'd by the International Lumber Company's office, and if made in his name must be assigned to that Company.* A direction is also given in the letter that in making contracts the price at the point of purchase must be filled in with the freight rate taken out, and that the contracts must not be made on prices f.o.b. the mill, the intention apparently being that the contract should show the purchase price received by the producer. The explanation of this letter by Mr. S. W. Backus is that Huston was their employee, that he had no right to make any profit out of the producer, and that it was their policy and intention that the producer should get the full benefit of the reduction of the rates.

This is followed by a lengthy letter of the 9th December from Huston to Newcombe, referring principally to matters connected with the purchase of the 10,000 cords of pulp wood as arranged, and intimating that as soon as this 10,000 cords had been contracted and delivered, he desired his resignation to be accepted by the Company and become effective and intimated that it was his intention to go into partnership with Senator Sharp and another friend in the business of pulp wood producing. The typewritten part of this letter covers the better part of three pages and is in a moderate tone, but at the end is a postscript in writing which reads as follows:—

“I am returning you all correspondence dictated at my request. Your policy of buying 10,000 cords will keep the reduction in freight rates effective but will discredit my own statements that you will buy from 25,000 to 50,000 cords. I have no option but to produce original correspondence, and file with the Premier (Mr. Norris), Mr. Dafoe, and the *Free Press*

and Mr. Carvell of the Canadian Railway Commission. Present indications look as if either the Company or myself will have to stand the gaff up here, and I can assure you that I have no intention of doing so under the circumstances.

"Should this letter cause you to change your policy and not buy 10,000 cords from me at once, I would appreciate your immediate decision. In the meantime I have completed arrangements that will hold the freight reduction in abeyance until your policy is definitely determined."

This letter is the first indication of what bears the appearance or suggestion of blackmail on Huston's part. On the same day there is a letter from Mr. Huston to Mr. Williams containing what is described as "original" of a letter to the Vice-President of this date, evidently referring to the above letter to Mr. Newcombe. This letter reads as follows:—

"You may be aware that my sole interest for some time has been buying in Manitoba and that since Mr. Newcombe and yourself agreed that I should buy 10,000 cords at once, am satisfied to buy that amount so that the freight rates will not be affected. This will leave me a clean record with the papers and public in Manitoba. I have laid my cards on the table in my letter to Mr. Newcombe, and intend acting exactly as I have stated.

"The Wisconsin people are in this field again. I received the enclosed letter from them this morning, and have wired per copy attached. I will relay their reply to you the minute they quote a price, and I believe that my letter is clear.

"I explained my actions to the Vice-President and I will go further and say that were the company living up to their agreement made in this territory I would have no intention of severing my connection with them, but they definitely agreed to buy 25,000 to 50,000 cords in this territory, agreeing to take a percentage of this wood dry. Mr. Newcombe's explanation from the viewpoint of the Company was very clear and concise and most reasonable, but it does not alter the fact that they are not buying the quantity of wood agreed upon.

"The last ruling on the freight question saves the company at least \$30,000 on last year's wood that has not yet been shipped, and on a full year's buying it will save them several hundred dollars. It is needless to say that Sharp can look after the political end of our Company's organization and so long as we co-operate with the M. & O. I believe it will be mutually satisfactory, but should there be any possibility of a split the wealth of the combine cannot come in this territory and offset public opinion and buy to the detriment of this territory."

"Please be good enough to acknowledge receipt of this letter at once, and inform me if there is to be any change in your policy."

This is the end of the typewritten portion of the letter and the postscript in Huston's handwriting follows:

"From the attitude taken by Crandall it is evident that he has no intention of complying with my request that he will wire the C. N. R. agreeing with Mr. Mander's last wire. I want it distinctly understood that if his neglect causes a complete cancellation of this order, I cannot interfere

further, nor will I accept responsibility. In my letter to Mr. Newcombe I anticipate a possible cancellation of my instructions to buy. In view of this possibility I have arranged that the new tariff be not published until I instruct. (Crandall informed me that the Commission could not withdraw their order without fight). If this is the basis of Company's attitude I would strongly suggest that it be altered for I can assure you that all action taken can be killed in twenty-four hours. I must have authority to buy 25,000 cords up here, one third dry, or I will have to explain and show that I have not been fourflushing. Dafoe asked me to-day to give him a story about proposed winter work. What in H.... can I tell him and come out clean? Wire me or 'phone me by noon to-morrow. It means either play the game or fight. In the long run you can break me, but this year we can have a good time."

On the following day, December 10th, Huston wired S. W. Backus as follows:

"Wire me Monday morning firm's decision regarding buying. Must be definite. Firm must decide whether Crandall's word carries more weight than mine regarding cancellation of reductions. I said no reduction unless agreement lived up to and refuse discuss further unless something definite Monday."

On the 10th of December, Williams had a long distance conversation with Huston at Winnipeg, lasting several minutes but apparently the discussion was only about rates.

On the 11th December (Sunday), Huston telegraphed E. W. Backus to New York as follows:—

"Freight reduction ordered and S. W. states saves thirty thousand last year's freight. You have lived up to all agreements to date but International states will buy ten thousand only. You agreed buy twenty-five thousand. Refuse your part means antagonizing Provincial Government, papers and Railway Commission. Crandall advises International rate order cannot be cancelled. I state that unless International play ball have arranged to stop reduction. Judge results and decide who you back. If not buying will refund you every cent drawn from you and let you stand gaff in Manitoba and Ottawa. Wire reply at once."

On the same day E. W. Backus wired Huston from New York in reply as follows:—

"Impossible pass on matter from here. Anticipate reaching Minneapolis Saturday."

On the same day Mr. Backus wrote a letter to Huston in the following terms:—

"Dear Mr. Huston:—I received your long night letter this morning and wired you as follows:—'Impossible pass on matter from here. Anticipate reaching Minneapolis Saturday'.

"I suggest that in the future you refrain from making veiled threats or communicating with myself or our organization in any way which gives the impression that you are trying to bull-doze somebody. You must learn to do business right, and you should know that it is utterly impossible for me to interject myself into matters which are being handled by our International Falls office at long range."

Mr. Backus thinks that Huston's death intervened and that he never received this letter. The evidence indicates that these threats were not taken seriously by the officials of the company, but treated as a bluff on the part of Huston. His suggestion of having the freight reductions cancelled seems ridiculous.

This ended the correspondence, and on Monday, 12th December, S. W. Backus phoned Huston to Winnipeg complaining of the tone of his letters and suggesting that he should come down and discuss the matters which were in controversy, and he states that he intimated to Huston that he had better come in a better frame of mind than his letters appeared to indicate, but that there was no intimation of any kind given to him by the 'phone or otherwise that if he came down he might be subjected to "strong arm stuff".

Mr. Williams states that his conversation with Huston over the 'phone on the previous Saturday was quite friendly and that he made no intimation of "strong arm stuff" being used if he came to the Falls, or anything of that kind. These denials are apropos of a statement attributed to one Tyrrel, of Winnipeg, a friend of Huston's, who is alleged to have said that he was present with Huston on the 12th December when he received a telephone message and that Huston told him that Curt (taken as referring to Curtis Williams) had mentioned the "strong arm stuff" to him if he went to the Falls, and that he would take his revolver along with him.

As to this hearsay evidence of Tyrrel's, which has appeared in various reports made to the Government and in the newspapers, when the Commission sat in Winnipeg a determined effort was made to get Mr. Tyrrel to attend the sittings of the Commission and give evidence, but he did not do so, and was apparently unwilling to give evidence as to anything he knew in connection with the alleged "strong arm stuff" or anything else relating to Huston.

On Monday, the 12th December, Huston came to Fort Frances by the afternoon train. The following day he refused to go to the Backus Company's office, but ultimately he was persuaded to take lunch with Newcombe and Williams at their quarters called "The Lodge." Mr. Young was also present, and after lunch there was a discussion as to the purchasing of the pulp wood. Newcombe and Williams expressed surprise as to his sudden change of mind when he had openly expressed himself as satisfied to purchase 10,000 cords, to which Huston's answer appears to be that unless he was given the right to purchase 25,000 cords he would be discredited in Manitoba. Williams repeated his argument that no matter what purchase proportion was given to him, he could not buy 10,000 cords or anything like that amount at \$8, and a suggestion was made as to increasing the 10,000 to 15,000. Huston, however, would not give up his position, and stated that he would cancel all he had done for the company. Newcombe then stated that they had no time to fight with him, they had too many other troubles. There also seems to have been some dispute as to an allegation that Huston had told Williams that his salary had been increased, whereas Newcombe said it had not been increased, and that an increase had not been considered, and that following this Huston resigned, and his resignation was accepted. Huston then asked for a statement of all salary and expense he had received from the company and that he would give a check for it and feel free to do to them what he said he would.

Following this a statement was made out showing a balance owing the company of about \$850, less a small credit for salary for part of the month. (The total amount if salary and expenses were included was \$3,675). Williams, who

appears to have been closer than anyone else in the Backus Company to Huston, went to him with the statement the next day to the Emperor Hotel, and said that of course Huston was not serious in stating that he would repay all the moneys he had received for salary and expenses, that the Company did not want that, and all they wanted was an accounting of certain expenses, but Huston continued insisting on paying for the whole amount and said he would have a cheque for it the following day.

Williams 'phoned Huston the next morning as to the expense statement previously asked for, and Huston said he had wired the Dominion Bank and would have a cheque there inside of two hours. In connection with this attitude of Huston's, evidence was obtained from Winnipeg showing the position of Huston's bank account. He had a bank account with the Dominion Bank in Winnipeg in which at the time of his death he had a credit balance of 67 cents. He also had an account in the Sterling Bank in Winnipeg in which at the time of his death he had a credit balance of \$12.01. As against this, however, he owed the Bank \$495 for advances upon his note, which is still unpaid.

The interview as mentioned above appeared to have been the last that any official of the Backus Company had with Huston. In the early morning of Friday, the 16th instant, Huston was killed by a bullet through his heart.

E. W. Backus, who had not seen him since the previous October, was at the time of his death in Toronto, S. W. Backus was in Minneapolis, and Curtis Williams was some distance away at one of the lumber camps.

With regard to the promotion of the suicide theory by Backus or his officers or others connected with him, the suggestion seems to be that this theory was being promoted by them to put the officers of Justice on a wrong trail and to divert suspicion being thrown on Backus or his officers or associates in connection with what was alleged by Lewis to be in the case of Huston a clear case of murder.

There has been a considerable amount of evidence given by Mr. Backus and officials of his company and by Crown officials at Fort Frances and others on this point, and I am convinced that there was no promotion of the theory of suicide by Backus or the officials of his Company or their friends or associates, and outside of the positive denials and the evidence against their doing so I know of no evidence in support of it.

It is quite clear that Mr. Backus and the officials mentioned thought that Huston had committed suicide and so expressed themselves and still think so, but in doing so they were simply holding the opinions that many others held, and apparently still hold, that Huston had committed suicide. What is entirely absent is anything to show or to convince me that the suicide theory was being promoted or nursed or that there was any propaganda to establish that theory on the part of Backus or his officials or associates.

Apparently partly in connection with this charge of promoting the suicide theory, or that Backus and his interests were conspiring to stifle a crime, the statement was made as mentioned above as to Mr. Harding, K.C., an alleged Backus lawyer in Toronto, having interviewed Jeffrey, the Government investigator, before he left Toronto for Fort Frances. Mr. E. W. Backus and Mr. Harding both gave evidence before me denying positively that Harding had ever at any time acted as solicitor for Backus, and Mr. Harding also denied that he had any conference or conversation with Inspector Jeffrey with reference to Huston's death, and I accept

their evidence. After hearing Mr. Harding's evidence, Mr. Lewis stated that he accepted it, but in his address before the Commission on the 5th of June, he seemed disposed to qualify his acceptance.

In the review I have made of matters concerning the Lewis charges in reference to Backus, it is impossible, having any reasonable regard for space, to present every particle of evidence and every document, but I have endeavored to present the matter fully and fairly, but possibly at too great length.

The main charge, however, if I have rightly apprehended it, is an exceedingly serious one, and the net result of all Major Lewis said in his speech brings conviction to my mind that he was pointing to Backus as the man who, directly or indirectly, had compassed the death of Huston, and that it was murder, and I feel confident that the newspaper summaries of his speech which went to the public and which he says were a fair report of his speech, must have conveyed to the public at large that he was making the charge I have mentioned.

I think I have demonstrated that at the time that charge was made and also the charge as to promoting the suicide theory and the charge of stifling a crime, Mr. Lewis had no information and no knowledge which could possibly warrant him in making the charges. He does not appear, although he had the matter of making his speech under consideration for about three months, to have made any personal investigation himself, or to have received any information except of a hearsay character. His speech in the House does not indicate that he was basing his charges on hearsay evidence or information, and, therefore, assumed a graver character.

Then coming to the question of the interest of Backus in obtaining documents supposed to be or alleged to be in the possession of Huston, in connection with which it is suggested Huston was threatening Backus with exposure, this matter has received a great deal of attention at the hands of the newspapers and in official reports and otherwise. The form in which it is generally stated is that before Huston came to Fort Frances on the 12th of December, he prepared some statement and took this with him, and possibly some other documents, but that he had made a copy of same which he had left in Winnipeg with his friend Tyrrel; that after Huston's death Tyrrel had turned over these documents to Col. Morley, the legal adviser of Huston's family in Winnipeg, and they were deposited (presumably by Morley) in a safety vault in Winnipeg. This much repeated story or suggestion of a story varies from time to time a little in details, but that is substantially the way it has been set forth. The only documents which I have been able to get access to are four telegrams and a statement. The telegrams were found after his death in Huston's grip at the Emperor Hotel, all signed by Huston, and addressed respectively to Premier Meighen, the Chief Commissioner of the Dominion Railway Commission, A. E. Warren, Western Manager of the C.N.R., and J. W. Dafoe, of the *Free Press*, and all complaining of the Backus Company not carrying out the alleged agreement to purchase pulp wood. Apparently none of these had been despatched. The statement was one on red paper, prepared by Huston, setting forth his alleged grievances in connection with the Backus Companies' refusal to purchase a minimum of 25,000 cords of pulp wood in Manitoba, and endorsed on the back of it in lead pencil in Huston's handwriting were various charges and threats against the Backus companies. Mr. E. W. Backus dealt fully, and in my opinion, satisfactorily with all these charges in his

evidence before me. At the top of the first page of the statement was a memo. in lead pencil signed with the initials O. A. H., in Huston's handwriting, which reads as follows:

"J. W. Dafoe—As promised I am enclosing statement and all evidence with O.K. of legal department. Unless I wire you by midnight Tuesday, you may use it as you suggest. O. A. H."

In his evidence Mr. Dafoe, referring to this memo., states that Huston never intimated to him that he was writing him and there was no suggestion to him by Huston of showing up Backus in his paper, that he, Dafoe, made no such suggestion, that there was no suggestion by either that Huston would send him a letter which he could use in a certain emergency and that he does not understand the memo.

As to the documents said to be in a vault in Winnipeg, under Morley's control, Constable Campbell made several trips to Winnipeg and endeavoured through Morley to get access to or information concerning these papers without success.

Furthermore, Col. Morley, who attended sittings of the Commission at Winnipeg, representing the Huston family, some of whom also were present, declined to give or submit evidence.

There is not a tittle of evidence that E. W. Backus or any of his officials had any knowledge that these documents or any other documents were in the possession of Huston, and I am unable to conceive how by the wildest stretch of imagination, it can be suggested that Huston had in his possession any documents which Backus or his officials had any interest in obtaining.

I consider that it is clear beyond question that Mr. Backus or his companies or officials had no motive or interest of any kind for compassing, directly or indirectly, Huston's death, that there were no documents of any kind on Huston's person in the shape of contracts or letters or otherwise which Mr. Backus or any of his companies or officials or associates were interested in obtaining, and that being the case all the charges against him, of his interest, or that of his companies, in my opinion fail absolutely, and I do not think there is a shadow of any kind in connection with the death of Huston resting on Mr. Backus or his companies or his officials or associates.

It has been pointed out in the course of the hearings before the Commission that Lewis' charges were the more dangerous by reason of the fact that they were made by him in the Legislature in his capacity as a member, and, therefore, that his statements were privileged, and he could not be called to account for same. Mr. Lewis has stated repeatedly that his sole aim in making his speech in the House was to vindicate the memory of Captain Huston from the stigma of suicide. Men must be judged by what they say and do and not by what they say afterwards was their intention or their motive. I think the charges made by Mr. Lewis with which I have been dealing were made recklessly, with indifference to their truth or falsehood and without excuse or warrant.

I can appreciate the possibility that a man speaking in the Legislature in the heat of debate may be carried sometimes beyond what he intended to say, and in this case Mr. Lewis has stated that when he rose to make his speech, he did not intend to mention the name of Mr. Backus, but I have not seen any evidence at any time since his speech was made expressing any regret on the part of Lewis for making these baseless charges.

I now propose to set forth the facts surrounding the death of Huston as developed at the Coroner's inquest and the investigation by Crown officers, and then indicate the further information and evidence with reference thereto obtained by this Commission over and above that already set forth.

Captain Huston, who was about 24 years of age, arrived as mentioned above at the Emperor Hotel, Fort Frances, on the evening of Monday, the 12th of December, and had the conferences with the Backus officials mentioned above. Between the time of his arrival at Fort Frances and his death on Friday morning he had several interviews with one Robert Smith, a timber cruiser, and arranged that Smith should return with him to Winnipeg for the purpose of cruising a limit in the neighbourhood of Lake Winnipeg. The arrangement was that they should return together on Wednesday night. That evening Smith told him that he could not leave that night but that they would go to Winnipeg the following night. When Smith saw him on Wednesday they went out together and Huston bought a small file and they returned together to his room when Huston took out his revolver and got a cartridge out of the cartridge box and began to file it. Huston said that the cartridges would not fit and he thought they were the wrong size. This was the red box of cartridges produced at the inquest and the Colt revolver was the one found beside the body at the time of Huston's death. On the following day (Thursday) Huston got a cab, went across the river to International Falls, went to a hardware store there and bought a box of 38 calibre Colt cartridges. While there he met Smith and told him he would arrange for railway transportation for the night train. Smith says that Huston was very nervous that morning. Smith did not see him again until after his death. He went over to the Emperor Hotel in accordance with appointment and while there awaiting Huston's return the latter's death took place. On the occasion when Huston bought the cartridges he asked his driver about the regulations for carrying firearms in Ontario. He said that he had a permit to carry a revolver in Manitoba. The driver states that in asking for the ammunition he explained that he had some which did not fit and he bought a box of cartridges which he apparently thought would fit. The driver says that he did not appear to be despondent. The driver further states that Huston gave as the reason for carrying the revolver that he had been in the habit lately of carrying large sums of money and that he intended to go over to International Falls and get some money. The driver appears to have thought that he hadn't much money on him at the time. The driver said that he appeared to be quite cheerful and that he didn't notice anything nervous or excited. That evening he told the proprietor of the Emperor Hotel that he proposed to go to the station early to get a berth and was informed that 11.30 was the best time to go. The train for Winnipeg it appears went through about 2.40 a.m. Huston went to his room and asked to be called at 11.30. The night clerk went to his room at that hour, found him lying on his bed asleep and called him. He asked Huston if he would ride to the station but the latter replied that there was plenty of time and he would walk, and also told the night clerk to tell Smith to wait for him, if Smith came in before he got back. He left the hotel about midnight with the avowed intention of going to the station to get his reservation for Winnipeg. The station is about an eight or ten minutes' walk from the hotel, and if the sidewalk is followed the direction is north from the hotel and then west to the station. A short cut, however, consisting partly of two lanes and a path-way over these lanes and intervening lands running north-westerly from the direction of the hotel to the station, is used a great deal by persons going to the

station, and this pathway, which was said to be beaten hard by travel, ran past and pretty close to a small shed in the rear of a house belonging to a man named Marsh, the doors of the shed opening towards the path. It was just opposite the doors of this shed that Huston's body was found later with a bullet through his heart. Before this occurred, Immigration Officer George Wall met Huston midway between the hotel and the pathway where he was found and Huston was wearing a fur coat. After they had passed each other Wall met another man going in the same direction as Huston. He did not recognize this man, but describes him as tall, dressed in a black mackinaw coat with turned up collar and black cap. This would be very shortly before midnight.

About midnight a young man named McKelvey going home from the pool room where he works, was going along this short cut pathway, and some distance from where the body was found, heard three pistol shots in quick succession and then after a pause a fourth shot, but heard no cries for help. McKelvey's direction to his home did not take him past the path but along Third Street.

About half-past twelve Stanley C. Brown, express messenger of the C.N.R., was going towards the railway station along the path in question and saw a man lying on his back across the path. Brown first tried to rouse him and then after feeling his pulse and heart, neither of which he could feel beating, went into the Marsh house at the front of the shed and called up Policeman Camerand. Camerand arrived at a quarter past one and then procured the attendance of Dr. McKenzie. The facts then observed were that Huston was lying on his back with his feet toward the shed and his body lying in a northerly direction across the path. Both his fur coat and inner coat were on but opened. The first two or three buttons on his vest were opened and one of the buttons off, apparently blown off. There was blood on the shirt. Huston's watch, an inexpensive Ingersoll, was lying about two feet from his left shoulder. His Colt revolver was lying on the right of the body about three and one-half feet from the feet. The pistol was lying with the muzzle down in the snow and the butt upwards. There were gloves on both hands and the one on the right hand was said to be stained and the left hand glove was either torn or cut across the back. Subsequent evidence indicated that Huston must have been facing the stable, that he died instantly from the bullet wound which went through the centre of his heart and fell backwards, on his back, from the stable door. The left arm was lying out from the body clenched. The right arm was lying down by his hip. There was a black mark on the vest about the size of a quarter where the bullet penetrated. The evidence is a little indefinite about the pockets of the deceased, but apparently his watch pocket and the right pockets and the side pockets were turned inside out. It was said to have been a bright moonlight night but had been snowing and an examination was made at this time by Dr. McKenzie to see if there were any indications of a struggle but he could find none. There was some snow on the body at the time and Dr. McKenzie says the body was still quite warm and that he had probably been dead about half an hour. The head was apparently lying on the beaten pathway and the rest of the body in the track lying from the beaten pathway to the shed.

The post-mortem was made by Dr. O'Donnell, and his evidence was that the bullet entered from the front of the body between the fourth and fifth rib and went straight through the heart in a horizontal direction and lodged in the back. There were no other recent marks of violence on the body, but it was found that

the ankle of the left leg was stiff and would not move freely. This was the result apparently of a bayonet wound received by the deceased at the front and this left him lame, otherwise the body was in a healthy condition.

A little later the Coroner, Dr. Moore, arrived and took charge of the body and about the same time arrived Chief of the local police Sidney Wall. Sidney Wall's statement is that the left arm was stretched out with the left hand open and the right hand clenched which seems to conflict with the other evidence. Wall remained with the body until it was taken to the undertakers. There were four exploded shells in the revolver and one live one.

The sum of 97 cents was found on the body and although inquiry was directed to find out what money he actually had on his person at the time, the evidence on this point leaves it in doubt. The statement of Huston's friend Tyrrel indicates that he had \$28 when he left Winnipeg on the 12th of December to go to Fort Frances.

Certain papers were found, some on the body of deceased, some scattered around at some little distance from the body and some in his satchel at the Emperor Hotel. Part of these papers were found by one Robertson a short distance to the west of the shed, about five o'clock the morning of the death. These papers, according to Robertson, were scattered around covering a radius of about six feet. Witness stated that the papers looked as if they had been blown about by the wind and were scattered around in all directions. Part of the papers were found by William Bartley, a Customs Officer, near the station on the morning of the death, about eight o'clock. These latter papers were about fifty or sixty feet west of the shed. All of these papers were produced at the inquest and are in my possession with the exception of one or two letters of a personal character which the relatives of the deceased were permitted after the inquest to take away, as they did not appear to bear on the inquiry, on their undertaking to produce them if required.

I have gone through these papers and have not been able to find among them any which seem to me to have a material bearing on the inquiry or the inquest except what is known as the letter or statement on red paper, and which has already been discussed, in connection with the Backus charges.

At the inquest one witness, a young girl named Miss Forest, who lives with her parents in a house not far from the scene of the death testified that late Thursday night or early Friday morning she heard three shots which appeared to come from the direction of the station and heard a man's voice "holler", not very loudly four or five times for help. She says she thought nothing about it and apparently said nothing about it until after she heard about the murder about 12.30 the next day.

D. L. Huston gave evidence at the inquest that his brother was what was known as left-handed, that is naturally left-handed.

Mr. Berridge, the proprietor of the Emperor Hotel, and Mr. Haley, the night clerk, both gave evidence. Mr. Berridge speaks of the deceased as being on the day of the accident rather nervous but in the evening quite normal. He also states that on Tuesday Huston asked him if he had any room in his safe as he had a lot of money on him which he did not like to carry around. He said it was upstairs but he did not subsequently bring him the money. Mr. Haley, the night clerk, testified that on Thursday night when he started for the station to get the reservation there was nothing unusual in his manner or actions.

By nine or ten o'clock of the morning of the death, in addition to the action already taken to investigate the death, Crown Attorney Croome and Provincial Police Officer Campbell were at work on the case and in addition to others who will be mentioned later have continued with local Chief of Police Wall and Policeman Campbell to work on the case.

The foregoing represents practically and substantially the facts which were known or brought forth by the inquest which was held on Saturday, the 17th day of December, and adjourned to and concluded the 20th day of December. The Coroner's jury brought in what is spoken of as an open verdict, namely, that Huston came to his death on the 16th day of December, 1921, between the hours of 12 and 1 p.m. by a bullet wound from a revolver and that the jury were unable from the evidence submitted to determine who fired the shot that caused the death.

Upon the foregoing facts, a controversy sprang up in Fort Frances and Winnipeg, and in the newspaper press in these two towns and in the newspaper press of Toronto and is still going on, which appears to have substantially divided opinion into two camps, one in favour of the view that Huston's death was suicide and the other that it was murder.

The evidence as a whole has convinced me that after the body was discovered and in the early stages of the investigation it was pretty generally assumed in Fort Frances that it was a case of suicide. That was the view of Dr. McKenzie, Crown Attorney Croome and Chief of Police Wall and the latter as early as four o'clock on the morning of the death wired the Chief of Police at Winnipeg advising him that Huston had been found shot in Fort Frances about one o'clock that morning and that apparently it was suicide. However, shortly afterwards, just how soon I cannot say, the theory of murder was advanced and apparently from that time on has had its share of supporters.

The main sources for any additional information going to solve the problem of Huston's death were Fort Frances and Winnipeg. In Fort Frances, in addition to the witnesses who were examined with reference to the Backus charges, Mr. Croome, the Crown Attorney, Mr. K. D. Campbell, the Provincial Police Officer, and Sidney Wall, local Chief of Police and others were examined to ascertain if any additional evidence as to the cause of death was available. The only evidence brought forward was through Constable Campbell and consists of the following:—A Mrs. McGee and a Miss Daisy Stuart testified that on the night of Huston's death they noticed from Miss Stuart's room on the south side of the hotel about 8.30 p.m., a man, who was a stranger to them, standing on the south-west corner of the street looking up at the hotel, that it was a very cold night, and he remained there about three-quarters of an hour perfectly still, and then moved away. They appeared to have taken note of this particularly owing to the length of time he stood there.

Ray Rafferty testified that last summer he worked with a man named Mike Dubis; that at that time he knew another man named Stock, and a third man whose name he did not know, all members of a gang. He also saw a man talking to them who might have been the character known as "three-fingered Pete." Rafferty states that Dubis on one occasion in August last, when he was drinking, told him that they were going to lay for a fellow, a short, heavy-set man who often came down from Winnipeg. His name was not mentioned, but Dubis stated to Rafferty that he carried money and that his gang were going to hold him up. Rafferty says that he saw Dubis in Fort Frances in November last, that he left then and has

not seen him since, and he also saw Stock later, first says about the beginning of November and then later speaks of it as the latter part of November or beginning of December, but appears to be uncertain about the date. He says, however, that Stock was around Fort Frances within a few days of Huston's death, and that Dubis told him that Stock was the gunman of the gang. Mr. Rafferty did not impress me very favourably as a reliable witness. John Wazkosky was the next witness and he testified that he had lived in Fort Frances two years making paper, that the above-mentioned "three fingered Pete" came from his home town Winnipeg, and that he saw him last in Fort Frances in November before Huston's death, and that he and Stock went away together. He says he just saw them on the streets here, and has never seen them since. He fixes the date for seeing them by the prosecution of a man named Isaac Miller, which was settled as having taken place on the 14th November, and he states that it was within a week after this latter date that he saw "three-fingered Pete" and Stock. He also states that he knew Dubis and that Dubis left two or three days before Stock and Pete and that he has never seen them since, that he was a friend of theirs but was not of their gang. He says that they were talking about hold-ups and that they had a date on for every night. Louis Leckey, of Fort Frances, testified that he lived there three years, that he was held up on the morning of the 12th November last about 1 a.m. He was being held up by one man and saw two other men on the other side of the street. He states that this man covered him with a revolver and said "hands up." He further states that he did not hold up his hands but showed fight and the man decamped.

This evidence, of course, came from doubtful sources and it is difficult to say what direct bearing it had on the inquiry although it was very proper to offer it at the hearing. I am satisfied from all the evidence given at the inquiry that Fort Frances is a quiet, law-abiding town, and not a resort for thugs and hold-up men.

Mr. Croome, the Crown Attorney, Mr. Campbell, the Provincial Police Officer, and Mr. Wall, the Chief of Police, of whom I have formed the opinion that they are all capable, painstaking and honest officials, gave satisfactory evidence dealing with the holding of the inquest and their efforts at the time of the inquest and since to investigate the death of Huston and secure information in connection with same and their continued efforts in that direction to the present time, and I regard the inquest as having been conducted in an effective and thorough manner and the best evidence that it was complete is, that although some five months have elapsed since the inquest was held, practically no additional information of importance at Fort Frances has developed since.

Mr. A. G. Murray, a barrister of Fort Frances, who appeared for the Huston family at the inquest, and who is a former Crown Attorney at Gore Bay, and a man of intelligence and experience, testified that he thought the inquest was fairly conducted, that he did not think anything more could have been done and that he himself had heard of no further facts in the meantime except those mentioned above.

At Winnipeg, I encountered the difficulty already mentioned of the uncertainty whether witnesses in Winnipeg could be compelled to attend there and testify under this Commission in view of the fact that it was issued under an Act of the Province of Ontario. After full consideration it was decided that it was better not to attempt to compel witnesses to attend, but to give everyone who was likely to have material information an opportunity of attending and giving evidence before the

Commission. This course was adopted and ten witnesses who voluntarily submitted themselves to the jurisdiction of the Commission were examined. A similar opportunity was given to Mr. Tyrrel, the character of whose evidence has been previously mentioned; Col. Porter, the Winnipeg correspondent of the *Telegram*; Col. Morley, the solicitor in Winnipeg of the Executor of Huston's estate and of Huston's relatives, and to the relatives themselves, some of whom were present at the hearing at Winnipeg, but Mr. Tyrrel and Mr. Porter did not appear, and Col. Morley refused to give evidence or submit any evidence of the family or on behalf of the family. It was apparent to me that the main reason why some, at all events, of these witnesses did not give evidence was that there are insurance policies on the life of the deceased which have not been paid and in connection with which the question of suicide of the deceased would be an important element.

Of the evidence taken at Winnipeg a considerable portion related to the Backus charges and has already been dealt with. The evidence taken there which directly concerned the question of motive for the death of Huston had reference principally to his financial position at the time of his death.

The evidence of Daniel B. Sprague, who was manifestly a reluctant witness, because he was undoubtedly hoping for relief from the collection of the insurance moneys on Huston's life, if they could be collected, shows that in the beginning of 1921 the firm of Sprague-Rowland Lumber Company at Winnipeg, of which he was a member, entered into a contract with the International Lumber Company to supply them 5,000 cords of pulp wood at certain shipping points which were mainly on what is known as the Gypsumville line in Manitoba. Huston had an interest, so far as Sprague and Rowland were concerned in this contract in this way. He was supplying wood as vendor from and around his own ranch and tributary points at \$6.10, and at other points he was purchasing for Sprague and Rowland upon the arrangement that he was to buy as low as he could and to receive 50 per cent. of the net profits which Sprague and Rowland would make out of the International Company. Sprague and Rowland furnished the contract forms for the purchase of the pulp wood from the producers and were to finance the transactions. They arrived at a settlement with Huston about May, 1921, and at that time after striking a balance of their accounts there was \$1,388.90 to be accounted for by Huston, and this was to stand against 190 cords of pulp wood which Huston stated was ready to be shipped from his own wood at Fairford on the Gypsumville line at \$7.30 a cord. This could not be shipped at that time as there was an embargo on the Canadian Northern Railway lines. Having arrived at this settlement they entered into a fresh agreement by which the division of profits was done away with. Huston was to purchase additional pulp wood, no limit being placed on the quantity, and this was to be shipped from various points and on various railway lines in Manitoba. Sprague and Rowland were to make advances as the pulp wood was purchased and it was to be shipped as soon as the embargo on the C.N.R. was lifted. The evidence indicates that the embargo on the C.N.R. meant that there were no cars available to transport the pulp wood and this embargo went on in the winter of 1920 and 1921, was raised for two or three weeks in April 1921, went into force again at the end of that period, and was not again lifted until about the middle of November, 1921.

This new arrangement between Huston and Sprague and Rowland provided that he was to purchase dry pulp wood cut in the winter of 1920-1921 as low as he could get it. He was to submit prices at which he could buy to Sprague and Rowland and they were to say whether they would accept the wood at that price or not, and Huston was to make his profit out of the producer. Apparently the

purchase price which was spoken of was \$5.50 to \$7.00 a cord, and there was to be no splitting of profits or anything of that kind. Huston was to make his entire profit on the price he could purchase for and out of the producer. Under this new arrangement, Huston reported purchases from time to time through the summer of 1921 and obtained from Sprague and Rowland advances on the strength of these alleged purchases from time to time, totalling in all \$5,729.20. As each advance was made Sprague and Rowland took from Huston what was known as a written bailment agreement in which it is set forth that owing to the embargo on freight cars a certainty quantity of cords of wood were to be accepted *then lying* on the C.N.R. right of way at a certain point, and were to be accepted by the purchaser on the ground, in place of delivery on cars, but Huston was to be responsible for same and agreed as soon as freight cars were available to load the wood in cars for shipment, and under this bailment agreement an advance was made against this pulp wood of a certain amount of money which is set out in the agreement. The effect of this method of dealing clearly was that advances were being made by Sprague and Rowland to Huston to the total large amount mentioned, on the statement and representation that the pulp wood in respect of which the advances were being made was purchased and in place on the line of the railway and available for shipment as soon as the embargo on freight cars was raised. A statement of these advances is to be found in exhibit 87 furnished by the Sprague, Rowland Lumber Company, and it is clear from this statement and from the evidence of Mr. Sprague that a very large portion of the pulp wood in respect of which advances were made as aforesaid were to be shipped at various points along the Gypsumville line and certain considerable quantities on this Gypsumville line were alleged by Huston to have been bought by his man J. M. Johnston to the extent of 100 cords and by his man A. J. Anderson to the extent of at least 183 cords. The advances in respect of the wood to be shipped on the Gypsumville line would run into at least \$3,000.

No suspicion seems to have been entertained by either Mr. Sprague or Mr. Rowland as to the question of the existence of the pulp wood against which they had advanced their money, by reason of the fact that until about the middle of November the embargo was not raised on the C.N.R. lines. Sprague and Rowland had been getting advances on their contract from the International Lumber Company, and were asking for further advances which were refused by the International Lumber Company unless inspection was made.

When Huston's death occurred apparently the Sprague, Rowland Lumber Company became suspicious and at once got into communication with the International Lumber Company, and as the latter company were interested in the contract the Sprague Company asked them to have a man sent up to ascertain if the pulp wood against which they had made advances to Huston was on the right of way of the C.N.R. as represented. Previous to this Sprague and Rowland had left everything to Huston, and this was the first investigation that was made. As a result of this, Daniel C. Harris, an employee of the International, or one of the allied companies, an experienced pulp wood man, was sent up in the latter part of December and spent several days on and along the Gypsumville line where the Sprague Company's heavy money was invested. Harris seems to have made a complete investigation along the Gypsumville line and points on that line where the pulp wood was supposed to be, but was not able to find any trace of same, nor that there was such a man as A. J. Anderson in existence, and the only information he got as to Anderson was from one postmaster who said that letters came for a

Mr. Anderson, but that these letters were always called for by Huston. Mr. Harris gives in detail his investigations along the Gypsumville line, and the various points thereon at which this pulp wood was supposed to be, and is quite clear that this pulp wood was not in existence. He states further that while on that line he met J. M. Johnston, the Manager of Huston's ranch, who said there was no pulp wood cut on the ranch and that pulp wood on the ranch was not sufficient to make more than a car or two (which would be about thirty cords). Harris also asked Johnston if he knew Anderson, and he stated that he never saw any such man around.

Sprague states that of the 190 cords to be shipped against the first balance of \$1,388.90, his firm only received one car of about fifteen or sixteen cords, and none of the pulp wood against which advances were made to the amount of \$5,729.20. In addition there were certain adjustments between Sprague and Rowland and Huston in their previous settlement in respect of which Huston owed them \$434.30, so that the total amount which Huston has never accounted to the Sprague, Rowland Lumber Company for is \$7,550.50, less the one car of pulp wood which had been shipped and which is mentioned above, and that was the situation of the matter when Sprague gave his evidence in Winnipeg a few days ago. In view of the facts disclosed by these transactions, the condition of Mr. Huston's bank accounts in Winnipeg (hereinbefore disclosed), the fact that the embargo had been lifted, and that a disclosure of the fact that the pulp wood against which the advances by Sprague and Rowland had been made was not in existence, was imminent, further comment is unnecessary.

It is further to be observed that Mr. Sprague's evidence was given in the presence of Mr. Huston's brother, the solicitor for the estate, Col. Morley, and other relatives of the deceased, and no evidence of any kind was offered or tendered by them by way of explanation.

The financial position of Huston at the time of his death is further shown by the position of his bank accounts in Winnipeg, already set forth, and by a certified copy of the probate of his will and the documents leading to probate. The probate papers show that the only real or personal estate which Huston had, over and above insurance payable on his death, was certain real estate (probably his ranch) valued at \$1,500.00.

The foregoing completes the review of the Coroner's inquest and the taking of further available evidence.

The remaining charge made by Major Lewis is the one already mentioned against the Department of the Attorney-General and its officials, charging them with culpable negligence in connection with solving the problem of the death of Captain Huston and that the Department rested under grave suspicion of not having endeavoured to bring out all the facts of the case.

I have already set out what happened in so far as the local officials at Fort Frances, who may be said to have a connection with the Attorney-General's Department, are concerned up to and including the time of the Coroner's inquest. In so far as the Attorney-General's Department at Toronto is concerned, the evidence discloses the following facts:

Mr. E. Bayly, K.C., the Deputy Attorney-General, produced the file of the Attorney-General's Department and gave an interesting account of the method of administering criminal justice in Ontario, which is briefly this. The system, which is an old one coming down from before Confederation, is, in Mr. Bayly's

opinion a good system and appears to work out in the following manner. The administration of criminal justice is supposed to be looked after primarily by the local or municipal police with the assistance of the Crown Attorney in each county or district town and also with the assistance of Coroner's inquests, local Magistrates and Justices of the Peace, and County and District Judges.

Circulars have been issued from time to time to the Crown Attorneys that in the case of really serious crimes the Crown Attorney shall at once communicate by wire or telephone with the Commissioner of the Ontario Provincial Police, giving as far as possible, the locality and the particulars of the crime, and further that they are at liberty to call upon the nearest Provincial Police officer to assist in the investigation of criminal cases under the Commissioner's direction. The Commissioner of Police is the head of the Provincial Ontario Police, a body of experienced policemen, including a criminal investigation department of five. Generally speaking, the administration of Justice is carried out in the more settled part of the Province by the local authorities, with such assistance as they may see fit to require from the Commissioner of Police, but in the north country and in provincial judicial districts police officers are stationed at various points who are under the direction and report weekly to inspectors who are apparently superior police officers stationed at various points and covering divisions. The Commissioner of Police acts under regulations of the Lieutenant-Governor in Council, and is at the head of the Provincial Police and his general charge of the enforcement of criminal law in Ontario, under the circumstances already detailed.

In Fort Frances, which is some 1,100 miles from Toronto in the Northern district of Ontario, with a population of probably 3,000 to 4,000, there is a local municipal police force of two men, consisting as already indicated of Chief of Police Wall and one Camerand. In addition there is a Provincial police officer, Mr. K. D. Campbell, with an experience of fifteen years. There is a Crown Attorney, Mr. Croome, the Coroner, the Sheriff, the Magistrate and the district Judge.

The death of Huston occurred on the 17th day of December and the inquest was concluded on the 20th day of December, but the Attorney-General's Department did not hear of it until 29th December, the reason apparently being that it had been generally assumed in Fort Frances at the time of the death that it was a case of suicide. On the 29th December, Mr. J. W. Dafoe of the *Free Press*, Winnipeg, wired the Attorney-General calling his attention to Huston's death, intimating that he had discussed the matter with Col. Rattray, Police Commissioner for Manitoba, and that the latter thought there should be the completest possible inquiry into the circumstances.

On the same day the Deputy Attorney-General wired Mr. Dafoe acknowledging his telegram and stating that he was then taking the matter up with the Crown Attorney at Fort Frances, and also on the same day Mr. Bayly wired Mr. Croome, the Crown Attorney, that representation had been made to the Department that the recent death of Captain Huston should be investigated, to advise, and if no investigation had taken place, to look into the matter, and further that, if local Provincial police were required, to wire and he would have the Commissioner grant the necessary authority.

The following day the Crown Attorney wired Mr. Bayly in reply that an inquest had been held, that the jury had given an open verdict and that Pro-

vincial Constable Campbell had been investigating, and that he was to-day writing an outline of the facts so far ascertained.

On December 30th, the Commissioner wired the Crown Attorney acknowledging his telegram and offering to send up an inspector from the Investigation Department if it was desired, to which the Crown Attorney replied on the same day stating that he thought it advisable to send an inspector to investigate as suggested.

Mr. Bayly immediately got into communication with General Elliot who was then Commissioner of the Provincial Police, and instructed him to send up a first class man. General Elliott selected Mr. Jeffrey of the Criminal Investigation Department, an experienced Scotland Yard man, and Mr. Bayly says that both he and the Commissioner thought Jeffrey a first class man.

A full written report was sent by the Crown Attorney to Mr. Bayly on the 30th December giving the facts in connection with the matter.

At this point it should be stated that following the inquest and before Mr. Dafoe intervened, Provincial Police Officer Campbell had received from Col. Rattray a letter giving him certain information which he thought required investigation in Winnipeg and on the 26th December he went to Winnipeg pursuing his investigations very fully for two or three days, and returning to Fort Frances on the 29th December. On his return he learned that Inspector Jeffrey was coming up. The latter left Toronto on the first of January and arrived in Fort Frances on the 3rd of January.

Jeffrey, in concert with Campbell, then made his investigations in Fort Frances, and the two of them went to Winnipeg on the 5th January and continued their investigations in Winnipeg, and after completing their investigations there returned home to Fort Frances on the 9th January. Further investigation followed at Fort Frances and on the 10th instant Jeffrey returned to Toronto.

On reaching Toronto on the 13th January, he made a lengthy report to Mr. Joseph E. Rogers, the Superintendent of the Investigation Department and reported that it was clearly a case of suicide while temporarily insane, and that there was no evidence of murder.

On the same day Superintendent Rogers wrote Provincial officer Campbell, asking him to send a full report, stating that he understands Jeffrey reports the case as one of suicide, but that he wants Campbell's report independent of Jeffrey's.

On the following day Mr. Rogers sent this report to the Commissioner of Police stating that he had carefully read the report, that it seemed full and explicit, and that it appeared that Jeffrey had covered every available channel. Further he stated that it looked to him more like a case of suicide than murder. He also forwarded an extra copy of the report and suggested that it be sent to the Crown Attorney.

About the same time Mr. Bayly had a conference with Mr. Jeffrey, went over the report and seemed to think it a clear case of suicide, with the qualification that he had some doubt owing to the four shots being fired, but that Jeffrey explained that this was not an uncommon occurrence in undoubted cases of suicide.

On the 17th January the Commissioner sent Jeffrey's report to Mr. Bayly and also a copy of it to Crown Attorney Croome.

Also on the 17th January, Campbell forwarded to Rogers a very lengthy and detailed report dated the 16th January. In this report, while not committing himself to any theory, Campbell appears to have leaned against the theory of suicide and to the theory of murder.

On the 28th of January the Commissioner, General Elliott, requested a report from Superintendent Rogers.

On the 3rd February, the Attorney-General called the attention of the Commissioner of Police to an article in *Jack Canuck*, and suggested that he should consider whether there should be any further action by the Provincial police.

On the 4th of February, the Commissioner directed Rogers to continue further investigations as he was not satisfied that Huston came to his death by suicide, and that he thought the District Inspector should deal with him direct.

On the same day the Commissioner wired District Inspector Symons at Port Arthur, requesting him to go to Fort Frances, get into touch with Constable Campbell and press further action and investigation. Copy of this telegram was also on the same date forwarded by the Commissioner to Constable Campbell and enclosing a cutting from the *Evening Telegram* of the 3rd February, requesting him to read the enclosures carefully and continue his investigation, and to report on the various matters dealt with in the cutting.

Then there is a report on the files by Inspector Jeffrey dealing with the criticisms of *Jack Canuck*, and maintaining strenuously his theory of suicide. On the same date, namely, February 4th, the Commissioner urged further action on Superintendent Rogers, and also referred to Superintendent Rogers a cutting from *Jack Canuck* of the same date and pressed continued investigation and action upon Superintendent Rogers in this matter.

On the 6th February, Commissioner Elliott wired the Chief of Police at Fort Frances for a report covering all evidence in connection with Huston's death.

On the 7th February at the request of the Attorney-General, Mr. Bayly prepared a full memorandum for him of the position of the Huston matter at that time.

At this time apparently the matter of offering a reward came up for consideration.

On the 9th February, Constable Campbell sent in a report to the Commissioner of Police.

There was further correspondence between Mr. Bayly and the Crown Attorney around the 11th and 13th of February with reference to this case.

On the 14th February, Commissioner of Police forwarded to Mr. Bayly a memorandum and along with it various reports and correspondence to enable Mr. Bayly to reply to the Dominion Director of Insurance. In this memorandum the Commissioner calls attention to Inspector Jeffrey's second report evidently on *Jack Canuck*, and states that he has every confidence in Inspector Jeffrey as regards his knowledge and experience in criminal work and concludes by stating that after having perused these reports he, the Commissioner, is of opinion that Captain Huston shot himself.

On the 17th February, Mr. Bayly wired the Crown Attorney as to the advisability of holding a second inquest, to which the Crown Attorney replied

the following day that he knew of no further developments rendering a second inquest advisable or necessary, and that the police are still investigating.

On the 18th February the Department decided to offer a reward of \$1,000.00, and a telegram was sent that day by Mr. Bayly to the Crown Attorney advising of this and to insert notices in the Winnipeg, International Falls and Fort Frances papers. This reward is peculiarly worded as explained by Mr. Bayly in view of the opinion entertained that the case was one of suicide.

On the 22nd of February, Mr. Bayly made a memo. with reference to the position of the case to date for the Attorney-General.

On the 28th February, District Inspector Symons reported from Fort Frances to the Commissioner of Police that he had left for Fort Frances on the 25th, that he had gone into matters relating to Huston's death, that the Crown Attorney had informed him that he was quite satisfied that Huston's death was suicide and Symons goes on to say that from what he found out himself on Saturday he is more and more convinced that it was a pure case of suicide. He further reported that Campbell had a new theory that Captain Huston was murdered and robbed, and suspected two Austrians who were in Fort Frances that night, and who left that night, but had no further evidence against these Austrians except that they left town that night. This letter was received on the 3rd of March, and passed on by the Commissioner to Mr. Bayly.

Then on the 8th March, there is a letter from Mr. Bayly to the Director of Insurance at Ottawa.

This apparently completes the information contained in the Attorney-General's file.

Evidence given on this Commission by Mr. Bayly, Deputy Attorney-General, by General Elliott, former Commissioner of Police, and by the various officials at Fort Frances show that notwithstanding the views entertained by them as to the cause of the death, the investigation into the death had been continued by them ever since, and is continuing now.

The only official of the Attorney-General's Department either in the city or at Fort Frances who has been made the subject of specific criticism or attack is Inspector Jeffrey. This criticism appears to have been prompted largely from the fact that it is said that from the inception of his investigations Jeffrey adopted the theory of suicide, and the complaint is that he entered upon his investigation with a preconceived idea that the case was one of suicide. Along with this was the allegation made which has been entirely disproved as already indicated, that before Jeffrey left for Fort Frances he sought out and had a conference with Mr. Harding, who was alleged to have been a Backus lawyer. I have already found that this allegation was untrue. The only other reflection that is made on Jeffrey is that sometime after Mr. Jeffrey made his investigation he had been accused of accepting bribes from bootleggers and had left the service before an investigation was completed, and had returned to England.

General Elliott, who was Commissioner of Police and at the head of the whole Provincial Police Force, as the files of the Attorney-General's Department show, held Jeffrey in high esteem as an investigator and in his evidence states that he looked upon him as one of the best for that class of work on account of his previous experience. He is frank enough, however, to say that he thinks some domestic trouble had been wearing on Jeffrey and that he noticed that he was drinking, but that nothing in that respect had occurred to upset his confidence

in him. He intimates that the drinking was not to excess and was probably occasioned by some domestic trouble which was worrying him.

On the whole, so far as Jeffrey is concerned in his Department as a criminal investigator, he had the confidence of those who were working with him, and there has been nothing to convince me that he was not a capable and honest investigator.

When Mr. Lewis made his charges in the House, so far as the Attorney-General's Department is concerned, apparently the only information he had was information which he had got from the newspapers and the Porter Report. He never made any request to the Attorney-General or any official of the Department for information or to see the Attorney-General's file. He says the reason of this was that he felt satisfied it would not be given to him, and that if he went to any official of the Department, he would have been referred to the Attorney-General and the Attorney-General would have asked him to make his request on the order paper. As to this, and also with regard to an allegation made by Mr. Sabiston, a reporter, that he had been refused information by Mr. Bayly, Mr. Bayly denies that Mr. Sabiston ever asked him to see the record of the Department and states that if he had asked to see the record, he would have shown him same after considering whether in the public interest the reports were such as should have been given out. Generally speaking, he says that the public interest must always govern, that they will allow any one who has any interest, and the newspapers, if they wish, to investigate any file without fee on the understanding that matters which are in his opinion regarded as confidential shall not be given out. This seems to me a reasonable and a sound attitude.

On the 29th March, Mr. Lewis gave notice of a motion for an order of the House for a return of all correspondence and reports in connection with the investigation by Government officials into the circumstances surrounding the death of Huston, including all reports made by Ex-Inspector Jeffrey of the Provincial Police. This order and return were never made and no action of any kind was taken by Major Lewis to press it. It seems that technically these motions must be called by the Premier or Leader of the House each day before they are spoken to, the object of the rule apparently being to give the Government control over the business which is to be brought before the House. The usual way, however, if the motion is not called, to obtain the attention of the House, is to keep constantly inquiring of the Prime Minister or Leader of the House. A further remedy is to move the adjournment of the House when the matter can be spoken to.

Without going further into the details of this, I am quite satisfied that if Mr. Lewis had been serious about his notice of motion for an order for the return of the papers set forth in his notice of motion, he would not have simply given the notice of motion and done nothing further, but that he would have adopted means of showing at least that he was in earnest and endeavouring to get action in the House on his notice of motion. It is quite certain, however, that beyond giving this notice of motion, he made no effort of any kind to obtain from the Attorney-General's Department the information that they had with regard to the action they had taken in investigating Huston's death.

In a matter of this kind it is easy to criticize, in a general way, and use such terms as inertia, inactivity, inefficiency, but the fact is that in this case

there are substantially no specific charges against the Attorney-General's Department and I am convinced that a perusal of the Attorney-General's file would of itself satisfy any fair-minded man that there is nothing in these charges.

The evidence bearing on this branch of the Lewis charges and the records of the Department have convinced me that from the time of Huston's death, all the officials of the Attorney-General's Department, including the Attorney-General himself and including those at Fort Frances, were all in their respective capacities constantly, honestly, zealously and efficiently engaged in endeavouring to solve the true cause of Huston's death. I cannot find any evidence of culpable negligence or indeed negligence of any kind. It is quite clear that while most of the officials named came to the conclusion as the investigation developed that the Huston case was one of suicide, there were some officials and notably Mr. Campbell who clung to the murder theory, and that all of them notwithstanding any diversity of opinion, continued honestly and seriously to pursue their investigations with a view to solving as far as humanly possible the cause of the death.

It is probable that those who are taking an interest in this inquiry will expect that I should express my own opinion as to the cause of Captain Huston's death, and as to whether in my opinion it is a case of murder or suicide. After a good deal of consideration I have come to the conclusion that it is neither necessary nor desirable that I should do so. However strong an opinion anyone may have on the facts, there can be no absolute certainty, and various considerations have brought me to the conclusion, that I can best perform my duty, on this branch of the inquiry by simply reporting the facts.

Accompanying this report will be found a certified copy of the evidence and the exhibits filed.

All of which is respectfully submitted this twelfth day of June, 1922.

(Signed) J. A. MACINTOSH,
Commissioner.

